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In the

Appellate Court of Maryland

No. ACM-REG-1325-2024

September Term, 2024

JUSTIN KYLE HOLDER

Appellant,

v.

WASHINGTON COUNTY BOARD OF COUNTY COMMISSIONERS, ET AL.,

Appellees.

Appeal from the Circuit Court for Washington County, Maryland
(Hon. Judge Richard E. Jordan)

RECORD EXTRACT – VOLUME 3

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Record Extract
ACM-REG-1325-2024
Sept. Term 2024; No. 1325

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IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JUSTIN KYLE HOLDER *

Petitioner *

v. * Case No. C-21-CV-21-000097

BOARD OF COUNTY COMMISSIONERS WASHINGTON COUNTY, et al. *

Respondents *

* *

TRANSCRIPT OF PROCEEDINGS
(Public Information Act Trial)

October 24, 2023
Courtroom No. 7
Circuit Court
Hagerstown, Maryland

The above-entitled matter came on for hearing

Before:

The Honorable Richard E. Jordan, Associate Judge

Appearances:

Jacob L. Weddle, Esq., on behalf of the Plaintiff

and

Kevin Karpinski, Esq., on behalf of the Respondents

Transcribed from electronic recording by:

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P R O C E E D I N G S

(Whereupon this matter commenced at 9:31 a. m.)

THE COURT: Good morning. Please have a seat.

COUNSEL IN UNISON: Good morning, Your Honor.

THE COURT: Please have a seat. Let's call the case briefly, the Matter of Justin Holder, C-21-CV-21-097. And if counsel could identify?

MR. WEDDLE: Good morning, Your Honor. Jake Weddle on behalf of the Plaintiff, Justin Holder, who's sitting to my right.

THE COURT: Good morning.

MR. KARPINSKI: Good morning, Your Honor. Kevin Karpinski on behalf of the Respondents, Kirk Downey, Andrew Bright and the Board of County Commissioners for Washington County.

THE COURT: Okay.

MR. KARPINSKI: Mr. Bright and Mr. Downey are with me.

THE COURT: Good morning.

MR. KARPINSKI: Good morning.

THE COURT: Okay, Mr. Holder was on the stand when we finished yesterday. But were - - were we going to call somebody else?

MR. WEDDLE: Yes, Your Honor. We were going to call Josh O'Neal due to the testimony yesterday, try

to get him in and out before Mr. Holder resumes.

THE COURT: Okay, 10 o'clock, Mr. Karpinski is your time or…

MR. KARPINSKI: 10- 10:30.

THE COURT: 10:30, okay.

MR. KARPINSKI: Or 10:30 or 11:00. I - - I told them that I - - I'm trying to accommodate the Court's schedule here as well.

THE COURT: Well thanks, whatever you need to do, just let us know. If you know you've got a time coming up, let us know, and we'll get to a good stopping point if we can. Okay, so Mr. O'Neal you said is the next witness?

MR. WEDDLE: Yes, Your Honor.

TESTIMONY OF JOSHUA O'NEAL

JOSHUA O'NEAL, a witness, produced on behalf of the Petitioner, first having been duly sworn according to law, was examined and testified as follows:

THE COURT: You can have a seat.

A: Thank you.

DIRECT EXAMINATION

By Mr. Weddle:

Q: Good morning, Mr. O'Neal. Could you state your name for the record please?

A: Joshua O'Neal.

Q: Okay. And since last Wednesday, you testified last Wednesday. Correct?

A: Correct.

Q: Since last Wednesday, have you spoken with anyone regarding your testimony at this trial?

A: No.

Q: And have you spoken with anyone regarding, since last Wednesday, have you spoken with anybody regarding any other witness's testimony at this trial?

A: No.

Q: Last Wednesday, you testified regarding your practices in receiving and assisting with the response to PIA requests by searching various electronic databases maintained by the County. Is that correct?

A: Correct.

Q: And during your testimony, you advised that it would be your practice to either email the PIA search results to the County attorneys or to send the search results to the County attorneys via an internal link, I think you said. Is that correct?

A: An internal file transfer system, yes.

Q: Okay, internal file transfer. And it was your testimony that with respect to the search for emails between Morral7@msn.com, you emailed a ZIP file containing 16 emails to Mr. Bright. Correct?

A: I would have gotten the ZIP file to him or somebody in the County Attorney's Office via one method or another, yes.

Q: Do you recall whether you emailed that?

A: I do not.

Q: Okay. And it was your testimony that with respect to the search for the Barry Levey email account from the past three years, you emailed Mr. Bright an internal link or internal trans- file transfer, excuse me, to those files. Is that correct?

A: Correct.

Q: And you testified that you did not save the search results because it was your practice to send those to the County Attorney for processing and response to the PIA request. Correct?

A: Correct.

Q: And your testimony last week is still true today. Correct?

A: Correct.

Q: No, that's all. That's - - that's all. Thank you.

DIRECT EXAMINATION

THE COURT: Any cross?

CROSS-EXAMINATION

By Mr. Karpinski:

Q: Mr. O'Neal, are there occasions where a file is voluminous and the search results are voluminous, and you may advise the County Attorney's Office of the number of emails that would be responsive to the request?

A: If it were unusually large and would pose a problem to transfer, I may advise them of that.

Q: So let me show you what's been marked as Exhibit Six, Respondent's Exhibit Six. And would you just take a moment, read from the back and then read to the front.

A: Okay.

Q: Okay, so what is Exhibit Six?

A: It appears to be the communication where I performed the search on the B. Levey email address and advised Rachael McCarty of the size of the results of that search.

Q: Okay. So my question to you is sitting here today, do you have a recollection one way or the other whether you specifically just advised of the volume of the search or whether you also then went ahead and sent the 45,000 emails to Ms. McCarty or to someone else in the County Attorney's Office?

A: I don't specifically recall. This - - there isn't an answer or a final request on this email as to

the disposition of the results of that.

Q: Okay. So you're not sure whether you did or you didn't. Is that fair to say?

A: That's fair.

Q: Okay. That email doesn't reference a link or a Dropbox or some other term I don't understand that would suggest where those emails would be. Correct?

A: It does not.

Q: Thank you. That's all I have for you.

END CROSS-EXAMINATION

THE COURT: Any re-direct?

MR. WEDDLE: No, Your Honor.

THE COURT: Mr. O'Neal, thanks for coming back.

A: Thank you.

MR. WEDDLE: Thank you.

THE COURT: Have a good rest of the day.

MR. KARPINSKI: Pulling double duty today so…

MR. HOLDER: Thank you, Mr. O'Neal.

MR. KARPINSKI: …I appreciate you coming in.

END TESTIMONY OF JOSHUA O'NEAL

THE COURT: So we'll resume Mr. Holder?

MR. WEDDLE: Yes, Your Honor.

THE COURT: Okay, Mr. Holder, you're still under oath. So you can just have a seat.

MR. HOLDER: Yes, sir, Your Honor.

TESTIMONY OF JUSTIN K. HOLDER

JUSTIN K. HOLDER, a witness, produced on behalf by the Petitioner, having previously been sworn according to law, was examined and testified as follows:

MR. BRIGHT: Your Honor, on the way out the door, Mr. O'Neal asked whether he was excused or dismissed, and I said, yes, as far as I know he's excused. Just in case - - in case anyone thought otherwise.

THE COURT: Well, yeah, thanks. I should have checked with counsel.

MR. KARPINSKI: He's excused as far as I'm concerned. Happy to tell him that.

MR. WEDDLE: I think I concur.

MR. KARPINSKI: May I step outside just…

THE COURT: Yeah, if you could just let him know, Mr. Karpinksi.

MR. KARPINSKI: He must of thought that Mr. Bright had given him the answer because he's left. But we'll send him a text that he's excused.

THE COURT: Okay, yeah. I'm not sure we'd have any credibility because I think we excused him the other day.

MR. KARPINSKI: It's true.

THE COURT: That was sort of why I was befuddled on whether to say anything. All right, so we'll

resume Mr. Holder's direct.

DIRECT EXAMINATION

By Mr. Weddle:

Q: All right, Mr. Holder, yesterday we talked about, excuse me, we talked about counts four, three and two at the beginning of your testimony. And those counts, those were included in the Amended Complaint. Is that correct?

A: That is correct.

Q: Okay. And why did you amend the Complaint to the four separate counts?

A: During the litigation process after I filed suit, I discovered, you know, substantially new claim that there was these 16 emails between Morral and Mr., Judge Michael now. And I had, you know, when I first made the request, I was under the impression of kind of how the facts came out today for Mr. Bright that Mr. Michael is a, you know, State's Attorney, didn't know that he was a County official, wasn't - - I was looking for sheriff emails, and I was really looking for the - - the emails in counts two and three. I thought there was a lot more of them. And then as litigation proceed and they released those, that that sort of gave rise to this other count that was totally different and apart from counts two, three and - - two

and three. And then, you know, count four just was so related and so germane to this, so it just seemed economical to bring count four into this suit because it was - - things that probably should have been produced in discovery, it was just a, you know, I asked him three times, and I had to file suit. And, you know, I'd get the document. So that was sort of the difference there. And then as - - as the case went on, you know, and I was on probation because I didn't, you know, because I think when I got these emails, I showed them to Kenny Shapiro, and he just dismissed everything. You know, had I had them…

MR. KARPINSKI: Objection. Move to strike.

MR. WEDDLE: Move to strike what?

THE COURT: The objection as far as the last…

MR. KARPINSKI: Yeah, the…

THE COURT: …phrase about the gentleman…

MR. KARPINSKI: …last phrase is non-responsive regarding conversations with Mr. Shapiro and what Mr. Shapiro did.

THE COURT: Well the problem is the question was pretty broad as a why question. So if that's - - you're saying that is a reason…

A: Yeah.

THE COURT: …why you filed?

A: Yeah, that was one of the reasons I amended because I had - - my actual damages, you know, had accrued tremendously by then.

THE COURT: Well that's different from what you were saying before that somebody had told you something.

A: Well, okay, so because I get the emails right after I - - I made my plea, I was on probation, and - - and I was sort of getting an X amount per month in rent. And really I didn't, you know, that sort of accrued until they dismissed the charges because I couldn't go on the property. And just by the time it came an amendment of rights, the claim was so related to count - - count one, it - - it sort of overlaps with count two. So it seemed economical to try it here and not to file a new Complaint. But at the same time, it's - - it's enough difference between what I was asking for and what I got that that's why I amended the Complaint.

THE COURT: Okay, objection's overruled. If there was a motion to strike, I don't recall specifically, but if there was, that would be denied as well.

Q: And, Mr. Holder, you may recall yesterday that there was some discussion regarding whether or not the - - the State's Attorney is a state official or a

county employee. Is that correct?

A: Yes, there was discussion. I investigated that over the course of this litigation. I made a public information request to Mr. Bright, a list of all County employees. I did see that Mr. - - Mr. Michael at that time was included as a County employee. So I investigated. I - - I - - I read the Constitution that Mr. Karpinksi related yesterday. It says that, you know, the Sheriff himself and a State's Attorney are elected, I guess, by the people and they're state officials. But I found an ordinance 15-502, I think it was in the county that said that the County Commissioners appoint Deputy - - or - - or somehow the County, I don't remember exactly what it said, but the County Commissioners are related into hiring the Deputy Attorneys. So it was my understanding that the, you know, after this that the County Attorney was or, I'm sorry, the Deputy State's Attorneys, the Deputy Sheriffs were actually County officials. So I assumed that's why Mr. Bright was answering my email, but I wanted to be a 100% sure. So I reached out to Charlie Strong at that time, and I reached out to Gina Cirincion. And after they gave me some documents back, I was 100% sure, at least I trusted them, I believed what they said, I don't know

that it's true, but that's what I believed at the time. And that's why I filed suit against, you know, maintained that suit against the County, didn't join the State's Attorney.

Q: Can you tell - - can you tell the Court who Charles - - Charles Strong is?

A: Charles Strong is…

Q: Or Charlie Strong as - - as you called him.

A: Yeah, he's - - Charlie Strong was the State's Attorney for, I think, about 12 years. He worked with my wife in Community Action Counsel. They met ever Tuesday morning. When I was home Tuesday morning, I'd, you know, see everybody on the Zoom meeting. Mr. Michael was there sometimes in his place.

Q: And you referenced a person by the name of Gina or Regina Cirincion. I may have mispronounced that.

A: Yeah.

Q: Who is she?

A: She is - - she was appointed, I think by Judge Wilson to take over. Mr. Strong had retired a little bit early, and she took over operations at the State's Attorney's Office and then she was elected this last election cycle to continue in that role, doing a great job over there at the State's Attorney's Office.

Q: Mr. Holder, I'm handing you what's been marked as Plaintiff's Exhibit 36. Can you advise what that document is?

(Petitioner's Exhibit No. 36 Marked for Identification)

A: This is a letter I received from Mr. Strong in response to a Public Information Request Act I filed after the - - the charges on July 15th, 2021, had been resolved. And I had - - I had filed an appeal, and I just asked for my complete file to make sure I had gotten everything in discovery. And I sent this to Mr. Strong, and - - and this is what Mr. Strong wrote me back, this letter right here.

Q: Okay. And he said in this letter that any request for emails from the general email system should be directed to Washington County Government directly. Is that correct?

A: Yeah, that's what put me on notice that I should maintain suit.

Q: And that Mr. Strong is instructing you to get the documents you seek from Washington County Government. Is that correct?

A: That - - that's what he says. Like I said, I don't know if it's true or not, but that's what he told me.

Q: Okay. Your Honor, I move Plaintiff's Exhibit 36 into evidence.

MR. KARPINSKI: No objection.

THE COURT: 36 is admitted.

(Plaintiff's Exhibit No. 36 Admitted Into Evidence)

Q: Mr. Holder, I'm handing you what's been marked as Plaintiff's Exhibit 37. Could you identify this document for the record?

(Plaintiff's Exhibit No. 37 Marked for Identification)

A: This is an April 23rd, 2022, letter from Ms. Cirincion, Ms. Regina Cirincion as the State's Attorney. She's responding to a April 13th, 2022, PIA request I had made for communications between, I think it was Kenny Shapiro, State's Attorney, County Attorney and the witnesses, possibly some work product that I think - - I think the end result of this was that there was some work product in there. And this is her responding back to me in regards to that request I made.

Q: And the last - - the last line of the last paragraph, she refers, she says, "As Mr. Strong indicated in his letter of September 27th, 2021, you must request emails from the Washington County

Government."

A: Yeah, that's - - that's what she told me. I believed her when she said it. And, you know, like I said, I didn't join the State's Attorney to the suit. I still had time, didn't do it.

Q: And the - - the letter that she references here from Mr. Strong, that's the letter we just looked at of Plaintiff's 36.

A: That was my understanding when I read the letter, yes, sir.

Q: Your Honor, I move Plaintiff's 37 into evidence.

THE COURT: 37 is admitted.

(Plaintiff's Exhibit No. 37 Admitted Into Evidence)

Q: Mr. Holder, I'm handing you what's been marked as Plaintiff's Exhibit 38. Can you identify this email chain for the record please?

(Plaintiff's Exhibit No. 38 Marked for Identification)

A: Okay, it's - - this is an email that's sort of happening in parallel to, I believe, what would be like exhibits, Plaintiff's Exhibits, I'm sorry, Petitioner's Exhibits 28, 29, 30, 31, the emails that are subject to count four. It's sort of happening in

parallel. I'm making the same request to Ms. Cirincion because I'm getting the impression now of there's gonna be possibly a dispute between who the proper party is, I guess. And I'm asking her and - - and, you know, on June 7th, 2022, at 7:45 a. m., I read what Ms. Cirincion wrote, and she's clearly getting very agitated. And I'm - - I feel like I'm in a rock and a hard spot. But I - - I really - - I really believe what she's an honorable lady. I believe her. I'm relying on her that she's giving me good information, and I believe she's telling me the truth.

Q: Okay. And you're asking for documents, and she says, "I can't release the emails. Hopefully, you have directed a request to the County." Correct? The - - the email that you just referenced Tuesday, June 7th, 2022, at 7:54 a. m.

A: Well pr- yeah, actually prior to that on June 7th, 2022, at 12:55, I'm, you know, I think later on she just - - she just flat out tells me that, you know, she's just not authorized, and I believed her.

Q: And she says, the email that you just referenced, she says, "I can't authorize the release of emails expressly or not. Your inquiry must go to the County." Correct?

A: That's what she told me, and I believed her.
Q: Okay. And Mr. Downey's also copied on both of those emails. Is that correct?
A: Mr. Downey is cc'd on both of those emails. That's correct.
Q: Your Honor, I move Plaintiff's 38 into evidence.
MR. KARPINSKI: Well no objection, Your Honor.
THE COURT: 38's admitted.
(Plaintiff's Exhibit No. 38 Admitted Into Evidence)
Q: Mr. Holder, I'm handing you what's been marked as Plaintiff's Exhibit 39. Can you identify this document for the record?
(Plaintiff's Exhibit No. 39 Marked for Identification)
A: Yeah, this is a June 22nd, 2022, letter from Honorable Regina Cirincion in response to sort of this dispute that was going on from the prior exhibits in Exhibits 38 and 37. And it was my understanding after reading this, she had had a sit-down or some type of meeting with Mr. Downey, who I - - I assumed authorized her to release certain emails from the County email server. Don't - - don't know, was not a party to the meeting. And then basically some of this

is - - is emails between Mrs. Kovacs and Mr. Michael. Some of it's emails between Mr. Shapiro about who's gonna handle an appeal. And it was just pretty much everything that they had left in - - in the case that they could produce to me. I think, you know, I - - I was aware that there may be some work product emails that still weren't released. And I heard Mr. Michael testify yester- yesterday that he thought the Morral/Michael emails were his work product, and they did not produce those emails in this document here. So I - - I assume maybe that's the privilege they were - - I don't know.

Q: Your Honor, I move to admit Plaintiff's 39.

THE COURT: 39's admitted.

(Plaintiff's Exhibit No. 39 Admitted Into Evidence)

Q: Mr. Holder, if you turn to, I think it's the - - the 3rd page of the packet, the 3rd and 4th page, this is - - I think you referenced a - - a deal that was - - that was struck between in - - in relation to the criminal case. Is that correct?

A: There was a - - a plea deal struck. They - - they took the charges in order, *nol-prossed* the DNR charges, *nol-prossed* the trespass charges, amended the assault to disorderly. And I pled to - - well I - - I

left the sentencing up to Judge Long. And that was - - that was the deal that I understood it.

MR. KARPINSKI: Your Honor, so that it's clear for the record, when Mr. Holder says, "They," I assume he's referring to the State Attorney's Office.

A: That - - that's who I'm referring to.

THE COURT: Seems that way.

A: I'm sorry, I'll - - I will try to use better terminology.

THE COURT: Okay, the State's Attorney's Office. Right?

A: Yes, yes.

THE COURT: Okay.

A: Kenneth Shapiro in particular. And when I said, "They," also Mr. Harbin, my defense attorney at the time.

Q: So you took a - - I believe on the 4th page of the document, there's an email from Mr. Harbin to Kenneth Shapiro dated July 14th, 2021, at 3:07 p. m. And it - - you took an *Alford* plea to the disorderly conduct charge. Is that correct?

MR. KARPINSKI: Objection. Relevance?

THE COURT: Overruled.

A: That's correct. There were some caveats about what was supposed to be put on the record in court

that the creek was a public place.

Q: Okay.

A: Some things like that.

Q: Okay.

A: And then I think it - - well…

Q: You ultimate- you ultimately appealed that adjudication. Is that correct?

A: I did appeal it, yes.

Q: Okay. If I could reflect - - if I could refer you to pages 6 and 7 of this document.

A: Okay.

Q: What is reflected on pages 6 and 7, specifically a - - what appears to be an MDEC filing dated July 29th, 2021, at 1:49 p. m.

A: Well this is the case is - - is number is - - is what I remembered the case where the disorderly was. It reflects…

Q: And that's case number ending in 4087. Is that correct?

A: That's correct, 4087. This - - just for my use of pro se MDEC, it appears to be an envelope delivered where you could download the Notice of Appeal that Mr. Harbin would have filed for me in that case. And I - - I appealed the case because when I was in court on July 21st, for the first time I heard

Mr. Karpinski discuss emails between Mr. Michael and Ms. Morral. And I thought, you know, I - - if you go back to page 4 of the document, Mr. Harbin actually asked, "Can you, you know, can you confirm that we've received all the discovery in the State's possession?" And Mr. Shapiro told me they did.

MR. KARPINSKI: Objection. Move to strike.

THE COURT: As far as the hearsay?

MR. KARPINSKI: As to what Mr. Shapiro told Mr. Holder.

THE COURT: Yeah, as far as the hearsay from Shapiro, you're saying?

MR. KARPINSKI: Yes.

THE COURT: Objection sustained.

A: I - - I didn't get any additional discovery…

THE COURT: Yeah.

A: …from Mr. Shapiro. And that was when upon finding out that there was additional things out there, I decided I should appeal because I don't think the facts were - - I didn't feel comfortable that the facts were correct when I made the deal and the facts we put on the record.

Q: When you say - - when you say, "When I found out there were additional things out there," what do you - - what do you mean by that?

A: By things, I mean didn't know what the Christine Morral/Joe Michael's email were. And just a week before that, I had gotten from Christine Morral in private discovery of civil litigation, I got that email that's subject of count two. She had produced that to me about a week prior to that in - - in the discovery process, and we were in the middle of, and when I say, "We," I meant myself and my attorney, Adam Greivell, with Peter Rogers, the attorney for Christine Morral, were in the middle of a discovery dispute about additional emails she may have with other officials that she was claiming some kind of privilege on that I wasn't aware of.

Q: So when you - - is it correct when you came to realize, I'm sorry, what - - what date did you say you came to realize about the - - the Morral/Michael emails?

A: I - - I know it for I - - I trusted Mr. Karpinski what he represented to Judge Boyer in the courtroom that there was 16 emails between Joe Michael and - - and Christine Morral. That was the first I've ever heard of it.

Q: And - - and just - - just to let the Judge know, when you say, Judge - - when you referenced Judge Boyer in the courtroom, explain what you mean by

that.

A: On July 21st, they had filed it, the County, Mr. Karpinski on behalf of Mr. Downey, Mr. Bright and the Board of County Commissioners had filed a dispositive motion for dismissal or in the alternative, summary judgment based on some Affidavits by Mr. Bright and Mr. Michael. And those Affidavits were never specific as to what documents they had - - they had held. So we were going to a hearing. There were some motions to strike Affidavits because they didn't have the proper signatures or they weren't under personal knowledge. And I think there was some last-minute motions. I think I filed a surreply and that had - - that had my criminal disposition attached to it in the surreply letting them know you could release the documents now if this is - - any of these investigations. And, you know, sort of we showed up at trial, which seemed, you know, from my experience now is you get surprised at trial a lot by Mr. Karpinski.

Q: Let - - let's sort of unpack that statement a little bit. So the County, the hearing you were talking about, that was on the, in this case, that was on the County's first Motion for Summary Judgment. Is that correct?

A: Correct. It was in this instant case.

Q: Okay, and you reference a surreply. That surreply was filed on July 16th, 2021. Is that correct?

A: That's correct. And that was a surreply to the original, the very first Motion to Dismiss or Summary Judgment in this case. I think there were four total dispositive motions.

Q: And in that surreply, you said you attached certain, the sur- your surreply to their Motion for Summary Judgment, you attach certain documents, correct, to that?

MR. KARPINSKI: Objection. Relevance?

THE COURT: What's the relevance?

Q: Well it - - it - - it - - I'm just trying to unpack his testimony, but it goes - - it goes to, without testifying for the witness, it's going to say that on July 16th, he provided the - - the disposition of the, quote/unquote, "Ongoing investigation," that happened the day before he provided that to the County, which was to let them know that these cases were over. They were disposed of, and we were - - we were coming up on a - - on a dispositive motions hearing, I believe, the next week. It was on the 21st. So we were hoping to get the documents and sort

of avoid the - - the summary judgment hearing.

MR. KARPINSKI: Well, Your Honor…

THE COURT: Objection's sustained.

MR. KARPINSKI: And may I say for the record, I've never had a trial with Mr. Holder. So I take great exception to his, "When I get to trial, I'm surprised by what Mr. Karpinski does."

THE COURT: Yeah, well that - - that's - - I heard that, and I didn't hear an objection. But that's not something that, I'll just put it this way, it kind of went in one ear and out the other. So you're not on trial.

Q: Perhaps to clarify, when you said, "Trial," did - - did you mean not a trial like today? Did you mean…

THE COURT: Anything personal to Mr. Karpinski is really, unless you think he can tie it together somehow, not something that's considered by the Court to be relevant.

Q: Fair enough, Your Honor. Mr. Holder, just to - - just to maybe clarify for the record, when you said, "Trial with Mr. Karpinski," did you mean a motions hearing?

A: I - - I was just talking about this case in general, and I should have said, "The County," not Mr.

Karpinski. I apologize to Mr. Karpinski. I didn't mean any personal - - I should have said, "The County."

Q: All right. Mr. Holder, the - - the dispositive, the first dispositive motions hearing that you just referenced on or about July 21st, 2021, what was - - what was the result of that?

MR. KARPINSKI: Objection. Relevance?

THE COURT: Sustained.

Q: Mr. Holder, I think earlier on, perhaps the first day, there was some testimony regarding the address, the address as 25 and 28 Antietam Drive. Do you recall that?

A: I believe Mr. Bright said he sent a letter to 25 Antietam Drive with, you know, to my name.

Q: Okay. Do you personally own 25 or 28 Antietam Drive in Keedysville, Maryland?

A: Those - - those properties currently are titled in my wife's name. But due to certain agreements, I would say I have an equitable title that I could convert to a - - a real title, and I have a license.

MR. KARPINSKI: Objection. Move to strike.

THE COURT: Yeah, it's expressing a legal opinion. Sustained.

A: Okay.

Q: Taking out the - - taking off the table the issue of ownership, what role, if any, do you have with respect to those properties?

MR. KARPINSKI: Objection to relevance as it relates to this case, Your Honor.

THE COURT: Yeah. Explain to me, were those properties a subject of the documents that were the part of the PIA that is in dispute here?

Q: Well the whole Christine Morral sort of issue arose from Mr. Holder's - - Mr. Holder's physical being, physical presence walking about the - - the Antietam Drive properties, which were the subject - - which then, you know, were the subject of Mr. Greivell's testimony. And the - - the genesis of the Morral dispute was Mr. Holder's actions on those properties with respect to certain activities that he took to improve the properties, to locate roads and in his quest to gain water, public water and sewer as has been discussed on those properties. So that's sort of where I'm going with this is his role in those properties. Also Mr. Holder testified to part of the plea deal that was struck. It all - - it all relates to his damages, his role in the property with respect to his damages. I'm trying not to testify for the

witness, but that's sort of how I'm drawing this in.

MR. KARPINSKI: Well, Your Honor…

THE COURT: All right, I don't…

MR. KARPINSKI: …may I be heard on this?

THE COURT: Well I want to hold off a minute. I don't see the relevance of that. Do you think you really can tie it together? It doesn't sound to me like you can. But since I'm not finally ruling on this, I'll hear from Mr. Karpinski since it was his objection.

Q: I - - I think I can. You know, Mr. - - Mr. Holder testified that…

THE COURT: Yeah, let me hear from Mr. Karpinski first.

Q: Okay.

MR. KARPINSKI: May approach for with the exhibits? Because I - - I think you have…

THE COURT: Yeah.

MR. KARPINSKI: We - - we have gone far afield of really what the timeline here is. So obviously this first request was submitted in August. And Mr. Michael was consulted, and he was - - he indicated that they were matters under criminal investigation. That's in 2020. Okay? Mr. Michael, Judge Michael, testified that from his perspective, these matters are

still under investigation. But what Your Honor has in - - in front of you is an email dated January 21 of 2021 relating to the criminal charges that are continuing to pend- remain pending against Mr. Holder. Now then on July 29, Mr. Michael, and this is at Respondent Exhibit 3, "The State concluded the charge against Mr. Holder. I would continue to characterize the cases as under investigation." And then on Exhibit 4, July 27, to Kirk Downey, "Mr. Holder has appealed all of the charges and are going to be reinstated." Then on August 12, and Your Honor heard testimony about, you know, the - - the criminal trial. There was an appeal that was dated July 29, 2021. So this is still the State's Attorney's Office dealing with Mr. Holder. Okay? And then if you look at an August 12 email, August 12, 2021, Judge Michael says, "Please contact County Attorney Kirk Downey and/or outside counsel. I think his name is Kevin Karpinski." That's on August 12 of 2021.

Now Plaintiff or Petitioner conveniently did not include the date - - the actual emails that have been the subject of all this were produced, but I will. That's August 23 of 2021, is when after Judge Michael deferred to Mr. Downey and to myself. And quite frankly, the County didn't care anything about these

emails. They were being withheld because that's what the State's Attorney's Office said. But once that occurred, as of August 23, literally within 11 days of Judge Michael's email, they were produced to Mr. Holder. Because at that point, presumably the State was not raising an objection to those emails being produced. So we produced them. Now we're talking about Mr. Holder wants to get into his ability to use land, walk on land, the County has nothing to do with any of these criminal charges that were pending against Mr. Holder, any of the investigations that were related to Mr. Holder. And quite frankly, at the first indication that the State's Attorney's Office did not continue to have any interest in these emails and was going to defer to the County as to whether they could be produced, literally within 11 days, they were produced.

So this - - all this testimony about damages, not being able to use your property and the criminal proceedings, again, it has nothing to do with the County, Washington County, the two Respondents that are here. Those are not damages that could possibly be attributable to the County. They're just not. And respectfully, Your Honor, you know, the question is the State's Attorney had an objection. They continued

to maintain that objection. Once that objection was withdrawn, the County went ahead and produced what are the subject, the emails that are subject to this litigation. And I think we're going far afield when we start talking about, you know, Exhibits 39 and 38, 36 that talk about June of 2022, when the emails that were the genesis of this suit were provided as of August 23 of 2021. So the timeline really, quite frankly, adds up - - doesn't add up at all.

THE COURT: Real quick.

MR. WEDDLE: Yeah. First off, Your Honor, we went through the exercise of putting these various emails in today, Plaintiff's 36 through 39 in response to the - - the refrain from the County that, you know, they - - we didn't sue the right party, and the County is not the correct party. I mean Mr. Holder, you can see from 36 through 9 - - 39 time and time again asks the State's Attorneys for documents. And what is their response? "Any requests for emails, the general email system should be directed to the Washington County Government." That's at 36. That's on September 27, 2021. That's why he, again, that's why he kept doing it. I mean this just shows that - - that he has sued the right party, 37, Mr. Strong indicated in his letter, "You must request emails from the Washington

County Government." In 2022, Ms. Cirincion says, "Hopefully, you have directed the request to the County. Your inquiry must go to the County." Again, 39 is a meeting that Ms. Cirincion had with Mr. Downey, and they agreed to produce documents in the case. So he is directing - - he directed inquiry to the State's Attorney's Office. They're telling him, "Go to the County." That's what he did. That's what he's always done.

THE COURT: And where does that put Mr. Holder if that advice or belief that was communicated to him is just wrong?

MR. WEDDLE: Well it can't be wrong, Your Honor, and - - and this - - I mean perhaps this is argument, but he made the request that are issues to the County. They responded to him. The County, they're the custodian of records. In the MPIA manual, they're the custodian of records. In 36 through 39, they are the custodian of records. The County has simply waived this argument. I don't even know why we're having it because everybody's telling him to go to the County. When he goes to the County, the County - - the County respectfully, they - - they answer. And I think Mr. Bright testified, "I didn't want to get into this exchange. So I produced the - - we responded." Which

is what everybody is saying should - - should happen. So I simply for - - for the County to now say that he sued the wrong party when all the documents and all the actions state otherwise, and the MPIA manual says the County Attorney is the custodian of records, and the County has - - is the custodian of the email inboxes, that dog simply doesn't hunt.

THE COURT: Well I think this very argument itself is getting far afield. So I think we were back talking about the Keedysville property.

MR. WEDDLE: Right. And…

THE COURT: And what does - - far enough into the question at this point, but Mr. Holder's relationship to that property have to do with what we're doing here even accepting for argument your points you just made?

MR. WEDDLE: Well the whole genesis of the emails in dispute in count one were related to the DNR charges, right, and they were - - and that's - - those are the communications between Joseph Michael and Morral and - - and - - and purported trespasses and - - and issues with respect to the Morral property. So Mr. Holder in his capacity as the manager of 25 and 28 Antietam Drive was, again, was on the property then and there's a dispute of, you know, whose property is it? And that - - and it goes to the - - the purported

investigation.

It's our - - it's our contention that this whole investigation, there's no investigation at all. There's just simply none. And we've got - - we've got a long line of testimony that I'll go through in the closing from Judge Michael saying, "I'm not prosecuting this." He's telling everybody. He's telling everybody. He's telling - - he's telling Adam Greivell, Mr. Holder's attorney. He's telling Christine Morral. He's telling the State - - the State Attorney, Kovacs and Mary Ironside. He's telling, "I'm not gonna put any effort into this case." Okay? And it goes to his damages. Part of the deal was, part of the plea deal, in Exhibit 39, was the fact that he had to, as a condition of the deal, he had to - -, "The State is requesting that the Defendant," that's Mr. Holder, "Stay off the property during the pendency of the civil actions." So Mr. Holder testified that he was losing rent. Okay? And that's - - he took this plea deal, he testified, because he - - he didn't know that these documents were out there. It's part of his damage claim.

THE COURT: Well let's leave it at this because it maybe taking more time than what it will take for you to say what you - - you expect your client to say from

the witness stand. I'll allow you to go that aspect of your contention in the case, whether it's accepted by the Court or not and whether it's relevant or not. But in the interest of moving on and moving on efficiently, I'll overrule the objection, allow you to do down that road of inquiry and please do so efficiently.

MR. KARPINSKI: Your Honor, may I approach before I lose your - - the Court's exhibits?

THE COURT: That be great. Yeah, thanks.

By Mr. Weddle:

Q: Mr. Holder, you testified that, I believe, you're the manager of 25 and 28 Antietam Drive. Is that correct?

A: Manager of Uncle Eddies Brokedown Palace, which is owns the - - a big chunk of the land now and licensee of my wife's properties. I - - I can pretty much do whatever I want with them. She - - and collect the rent. Like she doesn't have much involvement with them at all.

Q: And what are your roles as manager of those properties?

MR. KARPINSKI: Your Honor, may I just have a continuing objection?

THE COURT: Yes, you may. It's noted.

MR. KARPINSKI: And not - - not object to every question.

A: I mean generally, she said, "I want to move there. Get me, get - - get this utilities and stuff done with Levey." When we got the property, I checked with Mr. Levey before. He said - - I was under the impression everything was gonna happen. We had everything we needed, easements, all the stuff. I knew there was problems with the sewer going in the creek and polluting the well. I was working my best I could to remedy all that. Came a time where I was told we don't have this easement. I said, "No, come on, I've been on this road since I've been a kid. Public roads, you can put sewer in them." Here I am behind Christine Morral's house. I get jammed up by everybody, and I'm trying to ask for public information. Nobody wants to give it to me, don't understand what's going on. So I started asking, "Something's got to be going on that I don't understand." We don't just let sewers pollute the creek. We have easements. These are public roads. Like all this should of happened. So that's in a nutshell in a Reader's Digest version why I've asked 100 times to the County for multiple documents because there's no rational basis in my mind why this is

happening.

THE COURT: Okay, let's - - let's move onto the next question.

Q: I can probably do this without a document. If I may approach and get the exhibits.

THE COURT: Okay.

A: These go underneath.

Q: Mr. Holder, in August of 2020, you made a MPIA request that I believe is at Plaintiff's Exhibit 1. Is that correct?

A: Yes. It's the last page of Plaintiff's Exhibit 1 is the August 3.

Q: And what was your purpose in making this request for all email correspondence from the following email address, Morral7@msn, and any Sheriff Deputy County official from May 19th to the present?

A: Pretty much to ascertain a rational basis of why the - - we weren't correcting the sewage, environmental matters, and there was a road and nobody cared to correct it. Just didn't make any sense to me.

Q: And about two and a half months later on August, I'm sorry, October 14th, 2020, you made a second request to the Defendants to inspect the public records of the Defendant County, the Morral emails

that we're talking about at issue?

A: Yeah. Well I made that request because I had charged Ms. Morral after Talley Kovacs, I had a correspondence with her where she provided a wiretap video that I believed was wiretap recording of me. And I knew that Morral had sent - - I suspected at that time, Morral had sent that to The Town. I had the - - I think I had saw the email to The Town. So I said, "Well you know what? Maybe Judge Michael's got a point. There's - - Mr. Bright's got a point. There's this wiretapping case. I better wait." So October 14th, she got dismissed. I - - I sent - - I told Mr. Bright, "Look, the case got dismissed. Can I get the documents now?"

Q: Okay. And those - - you didn't obviously receive the documents. Correct?

A: No, I did not.

Q: Okay.

A: I think I wrote back to them, and I explained that I thought they were *Brady*…

THE COURT: You - - you've answered the question.

A: Okay.

MR. KARPINSKI: Jake, when you find a convenient spot to - - to stop.

Q: We can - - we can stop now.

MR. KARPINSKI: Your Honor, would you mind…

THE COURT: Sure. Are you going to just do it here?

MR. KARPINSKI: I'm gonna try and - - I'm going to do it right here.

THE COURT: Okay.

MR. KARPINSKI: It's an open session item so.

THE COURT: Okay. Then we'll resume when you're all set to go.

Q: Okay.

THE COURT: We'll await word from you.

MR. KARPINSKI: Thank you, Your Honor.

THE COURT: Thanks.

MR. KARPINSKI: I apologize for the inconvenience.

THE COURT: No.

(Whereupon this matter went into recess from 10:24 a. m. until 1:03 p. m.)

THE COURT: Good afternoon.

MR. KARPINSKI: Good afternoon, Your Honor.

THE COURT: Please be seated. Go back on the record in The Matter of Holder. Resume direct examination of Mr. Holder.

By Mr. Weddle:

Q: Thank you, Your Honor. Mr. Holder, I'm handing you what's been marked as Plaintiff's Exhibit

40. Can you identify this document for the record?

(Plaintiff's Exhibit No. 40 Marked For Identification)

A: This is a Thursday, October 15th, 2020, at 10:59 email from myself to Ms. McCarty and the County Attorney's Office copy Mr. Bright asking them to disclose the specific investigation they were referring to. Explaining that, "At this time, I was trying to ascertain the extent of what I allege to be wrongdoing against myself and the extent to which this denial is obstructing my attempt to find justice. And I'm asking for reconsideration as I'm a person of interest. They're statute of limitations in concern. I'm a victim. I have a First Amendment right as a private citizen, and I believe everyone is aware of -- I thought everyone was aware of what was in the emails I was asking for. And I just humbly again would ask how you would feel about this. Would you not feel a dire need to see exactly what was said and delivered?"

Q: Your Honor, I move Plaintiff's 40 into evidence.

MR. KARPINSKI: No objection.

THE COURT: You say no objection?

MR. KARPINSKI: No objection. I'm sorry, Your

Honor.

THE COURT: 40 is admitted.

(Plaintiff's Exhibit No. 40 Admitted Into Evidence)

Q: Thank you. Mr. Holder, I'm marking for identification Plaintiff's Exhibit 41.

(Plaintiff's Exhibit No. 41 Marked for Identification)

Can you identify this document for the record?

A: Thursday, October 15th, 12:31 p. m. email from myself to Mrs. McCarty at the County Attorney's, Mr. Bright and blank carbon copy to my attorney, Adam Greivell. And I'm explaining, "I - - I looked a little more into the legal concept. I'm looking at the *Brady* laws and exculpatory materials, also a conspiracy to obstruct justice and what the last overt act would be. I'm being 100% sincere. I tried to my best to for- resolve things, forgive mistakes in my life. I'm only asking for equality of my rights." I name a few different constitutional amendments. I said, "In case you guys haven't noticed, these rights are being trampled on. I've done nothing wrong. I've harmed no person or property. I'm only asking for equality in the government. I do have faith in the courts, whether it be our District Court or the U. S.

court. I've done nothing but study the law for the last six months. You know, the people are in charge are protecting my rights have in the opinion failed me. I want the evidence so I can -," you know, I'm - - I think I'm just trying to portray the public interest and what I'm doing that I'm not just out there for my own private self. I'm saying something's not right with this situation. It doesn't feel right that these - - these emails, they can't be, you know, gonna - - I just didn't think they were gonna prejudice the investigation. So I was trying to convince Mr. Bright to look into them. Maybe if he used his discretion, he seemed like a very nice man. He seemed very fair through all the other PIAs I asked. I thought he really wanted to give me the documents. And now that I saw the email from August 3rd, I'm - - I'm convinced that he really did want to give me these documents. But for whatever reason I couldn't understand, something was in between us. So that's what I was writing to him for.

Q: Your Honor, I move for admission of Plaintiff's 41.

MR. KARPINSKI: No objection, Your Honor.

THE COURT: 41's admitted.

(Plaintiff's Exhibit 41 Admitted

Into Evidence)

Q: Mr. Holder, I'm handing you what's been marked as Plaintiff's Exhibit 42. Would you identify this document for the record please?

(Plaintiff's Exhibit No. 42 Marked for Identification)

A: I'm just gonna look through it here.

Q: Sure.

A: Okay, this is some communications on January 21st, 2021, sent from me to Mr. Bright, copying Mr. Downey and also copying the Office of the State Prosecutor, which I won't comment on, an ongoing investigation with that. However, I had - - I - - I really restated my sort of, I don't know, my arguments to Mr. Bright as the custodian that he should use his discretion. I looked at it as potentially like a motion for reconsideration now. As I'm looking back, I included screenshots from the Public Information Act manual trying to ascertain the specific investigation, what it was that we were withholding these documents for. I - - I just couldn't understand why they were continuing to be withheld, and I thought if I gave him all the information, everything out of the Public Information Act manual, all the reasoning I had, all the legal argument I could give him, I could persuade

him to use his discretion against whatever other force was holding these documents back and release them to me.

Q: Okay. Your Honor, I move Plaintiff's 42 into evidence.

MR. KARPINSKI: No objection.

THE COURT: 42 is admitted.

(Plaintiff's Exhibit No. 42 Admitted Into Evidence)

Q: And, Mr. Holder, I think you referenced you included parts of the Public Information Act manual. For the record, that is the 3rd page and the 5th and 6th and 7th and 8th page. Is that correct?

A: It is the 3rd page is the *Blythe versus State* case. The 6th page would be, again, the Public Information Act manual, *Blythe versus State* again and *Mayor the City Counsel of Baltimore versus Maryland Committee Against the Gun Ban*. *Briscoe versus Mayor and the City Council of Baltimore* and 111 Attorneys -- or 81 opinions of the Attorney General.

Q: And you see in this document there's some, I'll call them text boxes and - - and circling of terms and words. Who - - who did that if you know?

A: Either me or my agents.

Q: Okay. Do you - - why did you - - why did you

or your agents circle and underline and do text box?

A: I was - - I was really attempting to make a public interest argument to - - to Mr. Bright to release these. My - - my understanding is the government - - the government gets justice when justice is done for citizens in the court, that everybody is interested. And I was trying to persuade Mr. Bright that even though there may be some other force telling him not to release these documents, that - - that he had the power to do it, that he could override that. He was the custodian, and he could give me these documents because they were in the interest of justice in our courts, which has to supersede any investigation.

Q: Mr. Holder, I've handed you what's been marked as Plaintiff's Exhibit 43.

(Plaintiff's Exhibit No. 43 Marked for Identification)

Q: Would you identify that document please?

A: This is a Thursday, January 21st, 2021, at 12:30 p. m. email from myself to Mr. Bright, copy again Mr. Downey and carbon copy info@-info.osp@maryland.gov. "Dear, Mr. Bright," I just appreciated his response. "I intended to add some additional screenshots to the email, but they didn't

transmit. I did add them an hour ago with the reply email. I attached the same screenshots again." I just wanted to make sure he saw them. I reminded him, and he said it's not his prerogative to act on behalf of the State's Attorney. And I told him my opinion was, "You are acting on behalf of the State's Attorney and that you've not come out and stated overtly that you're denying this request at the explicit instructions of the attorney - - State's Attorney." I said, "It would be reasonable for - - for me to infer from our prior conversation any documents and texts within this email chain that you are in fact denying this request on behalf of the State's Attorney. I'm just trying to ascertain who - - who I need to ask." You know, if he doesn't have the power and the discretion to deny this - - this Public Information Act request, I'm trying to find out who it is that I - - that I need to ask. Am - - am I not asking the right person? I'm just - - this is kind of like, "Hey, you know, speak now or forever hold your feet - - hold your peace." And then I explained to him that there's seven provisions under 351(b). You know, the *Blythe* case said that you need to tell me which one. Just I'm trying to…

MR. KARPINSKI: Objection, Your Honor.

A: …narrow this down.

THE COURT: Sustained.

Q: Okay. Mr. Holder, if you turn to the 2nd page of the document, you'll see a - - a email from Mr. Bright to you dated Thursday, January 21st, 2021. And in the 3rd paragraph, Mr. Bright tells you, "For better or worse, the County's in possession of the Sheriff's email server." Correct?

A: Yes.

Q: Okay. Your Honor, I move to admit Exhibit 43.

MR. KARPINSKI: No objection.

THE COURT: 43 is admitted.

(Plaintiff's Exhibit No. 43 Admitted Into Evidence)

Q: And, Mr. Holder, after your third PIA request that you made on January 21st, 2021, you still had not received the - - the documents that you were seeking in response to that. Correct?

A: I hadn't received the documents from the County.

Q: Correct, okay. We're going to switch gears here. Eventually the DNR charges that we've been discussing, they - - those came to trial. Is that correct?

A: They never went to trial.

Q: I'm sorry.

A: They were *nol-prossed*.

Q: Okay. There was a - - thank you. There was a - - there was - - they eventually came to a hearing. Is that - - is that correct?

A: I think they just got dismissed before we had any process over them at all, just as a preliminary matter.

Q: Court's indulgence. I'm sorry. Mr. Holder, I'm handing you what's been marked as Plaintiff's Exhibit 44. Could you identify that document for me please?

(Plaintiff's Exhibit No. 44 Marked for Identification)

A: It's a email from Mr. Kenneth J. Shapiro. I know him to be the Deputy State's Attorney at this time, to my defense attorney, David Harbin. And it's a - - the 2nd page is my attorney, David Harbin's, email to Mr. Shapiro, which I understand to have memorialized the agreement that they made related to DNR citations and two separate pro se criminal counts filed by Mr. Benjamin Estes against me in November of 2020.

Q: And directing your attention to the 2nd page of this document, your attorney, Mr. Harbin, asked Mr.

Shapiro to confirm that we've received all discovery in the State's possession. Correct?

A: Yes. I wanted to be sure that I had gotten all the discovery, any documents, anything that was related to an investigation.

Q: Okay. And then it looks like a couple minutes later, Mr. Shapiro responds to Mr. Harbin stating, "You've received the charging document in each case, and I think but don't know if you received the attached photographs, text messages and maps. If not, as noted, it is attached. That is the only other discovery I have other than the charging document." Is that correct?

MR. KARPINSKI: I'm going to object on the basis of relevance, Your Honor.

THE COURT: I'm going to overrule the objection. I - - overruled.

A: That was my understanding. I believe Kenny to be an honorable man. He's never lied to me.

Q: Okay. Your Honor, I'm going to move Plaintiff's 44 into evidence.

MR. KARPINSKI: Objection.

THE COURT: What's your objection? The same?

MR. KARPINSKI: Relevance, Your Honor. This is documents between the State's Attorney's Office and

Harbin, and Mr. Holder's defense attorney. It has nothing to do with this case. And I believe Judge Michael testified that the information he provided to the County Attorney's Office with regard to why the document should not be produced was not limited solely to the DNR charges. So I - - I don't believe it's relevant.

THE COURT: What do you have to say about that in terms of the connection between if there were discovery violation, that is not relevant because it was *nol-prossed*?

MR. WEDDLE: Well…

THE COURT: What - - what were the documents? And well, first of all, you respond, then I might have some questions.

MR. WEDDLE: Your Honor, I'm putting this into evidence to show that I believe Judge Michael testified that if any documents would have been - - if any documents would have been produced, Christine Morral/Judge Michael documents, they'd be produced in the course of discovery. The next document I intend to introduce shows that that was not the case. Plaintiff's Exhibit 7 makes reference to this as well. Therein, Judge Michael wrote Christine Morral that their communications would come forth in discovery.

They - - they did not. And that's what we intend to show through this. So Mr. Holder did not receive the - - the Christine Morral/Judge Michael emails either as a *Brady* material, which is it - - it's - - it's not discretionary. It's mandatory. Or he didn't receive the documents in the course of – - of discovery. Documents which I mean these DNR cases were filed, as Your Honor knows, in June, early June of 2020. We're 13 months later in July of '21, and he still doesn't have the - - the discovery documents in that case.

THE COURT: That's not a PIA issue though. I mean if - - just accepting the argument for the sake of argument that there was a violation of the discovery rules or *Brady*, the case resulted in a *nol-pros*. It seems to me that that's a moot point and not relevant.

MR. WEDDLE: It…

THE COURT: What's the relevance to the PIA?

MR. WEDDLE: Sure.

THE COURT: If anything.

MR. WEDDLE: Your - - Your Honor, I submitted a bench memo this morning, and I have a copy of it if Your - - Your Honor would like. I can hand up a copy. Does Your Honor please…

THE COURT: Well if you want to hand up a copy, sure, it's fine. But I'm not going to review it on

this objection issue right now.

MR. WEDDLE: Okay, okay. Let me just hand it up, and I'll hand a copy to counsel as well.

MR. KARPINSKI: Mr. Weddle, I printed it out this morning.

MR. WEDDLE: Okay.

MR. KARPINSKI: It's I've got - - I've got a copy. I haven't read it yet, but I got a copy of it.

THE COURT: Thanks. And then you want to file it with the Clerk or if you haven't already? Or did you say…

MR. WEDDLE: We filed it this morning.

THE COURT: Did? Okay.

MR. WEDDLE: Yes. There's case law in there to - - to state that basically the ag- the agency has a - - has an obligation to prove that there's an ongoing investigation. That merely stating the words, "Criminal investigation, ongoing investigation," is not enough. They have to show and demonstrate that there, you know, that these documents would disrupt, impede or otherwise harm an ongoing investigation. There's also a quotation from *Fioretti* on page 9 of the brief that talks about when there is essentially no investigation going on. The Court uses the term, "I believe it to be more dormant than pending." And,

you know, the Court and takes a commonsense approach to this and says, "Look, if there's no investigation going on, there's no - - there's nothing to obstruct. There's no - - nothing to interfere with." And that's what we have here. We have - - it's our…

THE COURT: Let me just interrupt you.

MR. WEDDLE: Yes, Your Honor.

THE COURT: Are you talking about a PIA request? Are you talking about discovery requests, *Brady* material, that kind of thing? It sounds like you're talking about discovery, *Brady*, not relevant in my opinion. Where is, if it exists, the PIA request for the documents that you say or think you're saying would apply to the - - or would have been encompassed within the discovery or *Brady* material?

MR. WEDDLE: Well, Your Honor, it - - it seems to me that the County has taken the position that discovery materials are relevant to the analysis here. For example, in an Affidavit filed by Judge Michael in - - with the County's Motion to Alter or Amend, at page 6, he says, "At the time of the request based on the ongoing investigation and then pending criminal prosecution, disclosure of the requested records outside of the usual Maryland Rule 4-262 discovery process would likely interfere with said

investigation." So the County finds this sort of discovery issue to be relevant and has used it as an argument in support of their Motion to Alter or Amend, which was denied. You've heard test- you've heard testimony, I believe, from Mr. Bright that Mr. Downey made the comment, "Well why are we - - why are we here? Why are we getting involved in this criminal discovery issue?" It's related, Your Honor. And that's what Mr. Holder was - - was telling - - was telling Mr. Bright, "Look, you know, it's either, you know, these - - these are - - these are my *Brady* rights. Okay? And under 4-62- 4-262, I have a right to these documents in - - in *Brady*. They - - they don't interfere with an ongoing investigation. I need to get them." And that's what we're - - and that's what we're trying to prove. We're essentially trying to prove…

THE COURT: Where's the PIA request?

MR. WEDDLE: I'm sorry?

THE COURT: Where's the PIA request? I mean you're talking about discovery requests as I hear it.

MR. WEDDLE: They're - - I'm not sure - - I'm not sure I understand your question. But there - - there were three as of January 2021, there were three PIA requests. There was one in August of 2020, one in

October of 2020, and one in January of 2021.

THE COURT: For…

MR. WEDDLE: For the Morral emails. Okay? And the - - the County has stood on the fact that those emails relate to an ongoing investigation at that time and criminal prosecution at that time. Okay? The - - the only - - the only issue, the only ongoing prosecution against Mr. Holder at that time are the four DNR charges.

THE COURT: Was the request a PIA request and formulated as one? Let me - - I'll come back to you if need be.

MR. WEDDLE: Okay.

THE COURT: But let me hear from Mr. Karpinski.

MR. KARPINSKI: So, Your Honor, our position is that it's for the Court to determine whether the Defendant, namely Mr. Downey and Mr. Bright, the County, knowingly and willfully failed to disclose a public record. My principal objection to all of this is, is that really, quite frankly, one of the things that Your Honor pointed out when we were here last week, which is what is the evidence that you have that Mr. Bright or Mr. Downey knew, as the Plaintiff is asserting in this case, that there was no investigation going on, that the investigation was a

sham, that there was anything of that? And so we're going through all these documents that are - - clearly show there's a criminal proceeding going on. We have testimony from Judge Michael that other investigations were ongoing. We have no testimony whatsoever linking up that anyone went to Mr. Bright or Mr. Downey and said, "Oh, this is a sham. And the State's Attorney's Office is acting in bad faith and fraud. And - - and that there's really you should - - you should grant these PIA requests because I'm telling you that there is no basis in law and fact that Judge Michael believes that he is legitimately looking at matters involving Mr. Holder that were ongoing in nature."

And so our position, quite frankly, Your Honor, is very simple, which is the County, we did have the documents. They - - they were on our County server. I think the law is clear that we are - - the County is entitled to rely upon if another agency would deny the request, that it's permissible for the County to deny the request. And I have yet to hear any testimony that would put the County on notice that there was any improper, untoward basis by either Judge Michael or anyone else why they would tell Mr. Bright that these are ongoing investigations. And so all these documents that we have here between Mr. Harbin and Mr.

Shapiro really are a red herring to the issue of whether there has been a MPIA Act violation in this case. And that's my position.

THE COURT: I think that's an issue to be resolved by the fact finder and not on the objection. Objection's overruled.

(Plaintiff's Exhibit No. 44 Admitted Into Evidence)

By Mr. Weddle:

Q: Mr. Holder, I'm handing you what's been marked as Plaintiff's Exhibit 45.

(Plaintiff's Exhibit No. 45 Marked for Identification)

And could you identify this document please?

A: These were the documents - - well it's one document apparently. Looks like just by knowing things that Mr. Estes writes, it looks like something he might have written, produced with conjunction of that Plaintiff's Exhibit 44 as whatever - - and this was the only document that Mr. Shapiro produced to me on July 14th through my agent, Dave Harbin.

Q: And this is the - - this is the discovery that Mr. Shapiro sent Mr. Harbin. Is that correct?

A: That was my understanding, yes.

Q: Okay. In looking through this document, do

you see any documents related to the four DNR charges at issue?

A: I spent a long time studying this document, and I've been able to find zero percent chance that there - - this at all relates to the four DNR charges in any way shape of form.

Q: Your Honor, I move to admit Plaintiff's Exhibit 45.

MR. KARPINSKI: Objection.

THE COURT: 45's admitted.

(Plaintiff's Exhibit No. 45 Admitted Into Evidence)

Q: Court's indulgence while I find - - I'm trying to find a document. Mr. Holder, I'm handing you what's been identified as, I'm sorry, marked as Plaintiff's Exhibit 46.

(Plaintiff's Exhibit No. 46 Marked for Identification)

Would you take a look at that document and advise and identify it please?

A: Okay, there's actually - - it's a document that I - - I've called Holder Crim. And it's a - - two separate statements of charges and a letter from Frederick Seibert and Associates on the back two pages. And this is a document that I provided to

Julie Greene of the Herald-Mail upon a conversation with her. I was running for Council in Sharpsburg, and we were talking about a statement to the paper. I spoke with Ms. Greene. She advised after a conversation with the County, she asked me about these criminal charges that she became aware of. I said I didn't know anything about them. I drove straight up to Sheriff's Office. I got the criminal charges. I called her back to make a statement. I said, "Julie, these charges are bullshit." I said, "You can run that." And Ms. Greene said she's not gonna run the story.

Q: Okay. These are - - these are essentially the statement of charges filed by Mr. Estes. I think you represented he filed two sets of charges.

A: These - - this, yes, Mr. Estes filed these pro se criminal charges, yes.

Q: Your Honor, I move Plaintiff's 46 into evidence.

MR. KARPINSKI: Objection.

THE COURT: What's the relevance on Estes bringing these charges? Are these part of the charges relied upon by the State according to whatever documents are involved here?

Q: Yes. Your Honor, these charges - - these are

the charges that are referenced in Plaintiff's 44 and 45. These are the actual charges that were - - that were brought by Mr. Estes that were pending as of November 19th, 2020, and November 13th, 2020. So, again, at the time of the first two requests in August of 2020 and October of 2020, these charges that are set forth in Plaintiff's Exhibit 46 were not - - were not pending at that time.

THE COURT: They weren't pending at the time that the request was denied, PIA request was denied?

Q: Correct, the first two PIA requests were denied.

THE COURT: What - - where were they timewise in relation to those?

Q: Where - - where were these charges?

THE COURT: What do you contend? What that you can show by the evidence going forward?

Q: Well, again, Your Honor, the first request that Mr. Holder made was in August of 2020. These charges against him, these Estes charges were not - - were not filed at that time. So it's our contention that they could not have been part of any ongoing prosecution because there was no case at that time. The same holds true for the second request in October of 2020. These charges were filed by Mr. Estes in

November. So they were not - - they were not pending. You've also, you know, Judge Michael stated that he recused himself from the Estes issue because they're friends. So, you know, any - - any claim by the State that they were withholding documents or they had to withhold documents in August of 2020 and October of 2020 based on pending criminal - - pending criminal cases is not - - they couldn't have anything to do with the Estes charges.

THE COURT: Is the State relying upon these charges as part of the investigation, Mr. Karpinski?

MR. KARPINSKI: I don't know what the State would be relying upon. The County was not…

THE COURT: Well, I'm sorry.

MR. KARPINSKI: …was not party to any of these part-…

THE COURT: Respondent, let's say Respondent.

MR. KARPINKSKI: The Respondent was - - had no knowledge of the - - of the charges because the Respondent is not a prosecutorial arm of the State of Maryland.

THE COURT: The Respondent is not relying upon those specific charges as a denial because of an investigation of the denial of the PIA request?

MR. KARPINKSI: The Respond- the Respondent does

not know whether the State's Attorney was advising that the records should not be reduce - - be produced based upon these charges. It's the best I can say. It just - - it - - the State's Attorney's Office obviously was conducting their own investigation. I'm not sure what they were relying upon.

THE COURT: The Court will admit 46. It's a matter in dispute. Whether it's got any weight or not, we'll see.

(Plaintiff's Exhibit No. 46 Admitted Into Evidence)

Q: No, this is a photocopy.

MR. KARPINSKI: We at 47, Jake?

Q: I'm sorry, thank you, 47.

(Plaintiff's Exhibit No. 47 Marked for Identification)

Q: Mr. Holder, I'm handing you what's been marked or identified as Plaintiff's 47. Can you identify this document please?

A: This document is what I would have received on July 15th, 2021, after my Alford plea to the disorderly conduct in the public creek. And I had some fingerprinting analysis here. It looks like just standard documents you get after you, you know, plead in court. And I think this is what I submitted along

with an Affidavit on June or July 21st as a surreply.

Q: If I may - - if I may point the Court to the docket. It - - the surreply was submitted on July 16th not the 21st. And - - and you believe - - you believe that you submitted this to the County in your surreply?

A: Yes, to the County.

Q: Okay. In this case?

A: In this case, in this case.

Q: And why did you do that?

A: I - - I did it to avoid the expense of going through a hearing if they were gonna produce the documents to avoid further litigation to try to, you know, come to some resolution. And if there was documents related to this investigation to show, "Look, no matter what criminal charges I had pending, no matter what was going on, it's over. Let's avoid at least eight hours of attorney's fees or whatever cost to prepare, whatever litigation cost, let's stop dragging it out. Let's produce the documents if we can produce them."

Q: Okay. And…

MR. KARPINSKI: Your Honor, may I have a moment to get the pleadings?

THE COURT: Sure.

Q: Your Honor, I - - I just pulled the surreply, and I'd like to correct myself. I made an error. I apologize. The surreply was filed on the 20th, not the 16th. I - - I apologize…

THE COURT: Okay.

Q: …to the Court.

MR. KARPINSKI: Of what - - what year?

Q: 2021. July 20, 2021. And, Mr. Holder, you - - you testified to a hearing. What hearing was that?

A: There was a hearing in front of Honorable Judge Mark Boyer, July 21st, 2021, which I think Mr. Karpinski went first because it was his motion. You opposed and there was rebuttal. It was a motion for dismissal on the grounds of - - I - - I don't know what the grounds were for dismissal. I didn't understand it from the motion. But I - - I think it was ultimately a failure to state a claim, facts outside the record and summary judgment motion with Affidavits from Mr. Bright and Mr. Michael.

MR. KARPINSKI: Your Honor, I'm going to object. I don't think we need to re- relitigate every hearing that's been held in the case.

Q: Fair enough.

THE COURT: Okay, just move on or…

Q: Yes, yes. Thank you, Mr. Holder. And, Mr.

Holder, you've - - you've - - you've heard testimony about the number of PIAs you filed. Correct?

A: Correct.

Q: Okay. And this case is not the only case in dispute that you've had with the County. Correct?

A: Over the Maryland Public Information…

Q: Yes, yes.

A: I - - I have another case with two competing dispositive motions pending.

Q: Mr. Holder, are you familiar with the Public Information Act Compliance Board?

A: Yes, I am. I have brought some matters as even Mr. Bright testified to before them sometimes. In order to - - to just mitigate the resources that I'm spending, that the County's - - that the taxpayers of this County are spending to just mitigate this and try to resolve some of these…

MR. KARPINKSI: Objection. Move to strike. Well beyond what's at issue in this case.

THE COURT: Sustained.

Q: Without - - is it fair to say that you took one such case, at least one such case with respect to the County to the Public Information Act Compliance Board?

A: I've taken at least one case…

MR. KARPINSKI: Objection. Relevance?

THE COURT: Sustained.

Q: Your Honor, may - - may I respond to the…

THE COURT: Real quickly please.

Q: I'm sorry?

THE COURT: Real quickly please.

Q: Your - - Your Honor, this - - we're - - we're seeking to - - one of the issues at play here is this knowing and willful violation with respect to actual damage. There is a - - there was a recent decision handed down by the Public Information Act Compliance Board in which Mr. Holder and the County had a dispute. And I think the - - the court's instruction at the end of that decision are particularly - - the Court's decision - - I'm sorry, the Compliance Board decision at the end of that opinion is particularly instructive here and that's what I - - I'd like to offer it into evidence.

MR. KARPINSKI: It has nothing to do with this case or the MPIA Act request in this case. And it's a decision that was issued well after this matter was filed.

THE COURT: Okay. How does it relate to willful - - willfulness, knowing and willful, whatever?

Q: Well it - - if I may just read the - - the

portion that I'm - - I'm looking to have the Court consider. The Public Information Act Compliance Board says that…

MR. KARPINSKI: Well, Your Honor, let's start with the date please for the record.

Q: Sure. The date of - - of this decision is October 5th, 2023. And it was with respect to one of Mr. Holder's PIA requests related to sewer and water system related agreements between the County and - - and various sub-districts that he made. And, you know, the County has essentially characterized Mr. Holder as, you know, in - - in a league of his own and, you know, files all these requests. And I'd like to show the Court that, you know, at least one – one board found that the County's actions with respect to him may not be completely kosher. The - - the Court - - the Court ruled that here it seems that the Complainants, that would be…

MR. KARPINSKI: Your Honor, I'm going to object. First of all, it's not a court. It's a board.

Q: I'm sorry.

MR. KARPINSKI: Secondly, how could anything from October of 2023 have anything to do with MPIA…

THE COURT: I hear you.

MR. KARPINSKI: …requests?

THE COURT: Go ahead.

Q: Here, it seems the Complainant's suggestion as to how he might, I'm sorry, let me back up. The - - the board says, "If initial collaborative efforts between the applicant and a custodian are not successful, then as we note above, the parties may attempt to resolve their dispute with the assistant of the Ombudsman. At the end of the day, the MPIA depends upon collaboration." Here, it seems the Complainant's," that would be Mr. Holder, "Suggestion as to how he might reduce the burden on the County and also the cost were met with no genuine collaborative efforts on the County's part. Going forward, the County should work with the Complainant in good faith to respond to his PIA requests, quote, 'With the least cost and least delay,'" citing General Provision §4-103(b).

THE COURT: First of all, there's an independent judgment on that to me by the Court, if at all, frankly. And secondly, it is clearly by the virtue of the date in no way related to this case even if the first point by the Court were inaccurate. You're talking about earlier this month. The objection's sustained.

Q: Mr. Holder, as part of your guilty plea, your

guilty offer plea, that led to probation, did it not?

A: Yes, it was unsupervised probation, but it had a condition that I was to not enter the property on Plat 10955, which described a portion of my wife's and the LLC or what land I held in trust. That depends on an appellate decision in 61-2023 term. But I couldn't go on that land. I couldn't do anything with that land. I couldn't do my job 100% in collecting the rent from that land. I couldn't camp on the land. I couldn't enjoy it the way I've always enjoyed the land. I hold a bear license to use however I want whenever I want.

Q: Okay. And what - - you said you couldn't collect the rents. What rents are you talking about?

A: I was…

MR. KARPINSKI: Objection, Your Honor.

THE COURT: Sustained.

Q: Mr. Holder, can you quantify the amount of rents you could not collect?

MR. KARPINSKI: Objection.

THE COURT: Sustained.

Q: You talked about the loss of use of the property on Plat, I think you said, 109- 10955. What uses did you make to that property?

MR. KARPINSKI: Objection.

THE COURT: Sustained.

Q: Can you in any way quantify the amount of actual damages you contend you suffered as a result of the Defendants' denial of count one?

MR. KARPINSKI: Objection.

THE COURT: Did - - how did you refer to the damages? Damages with respect to what?

Q: Can you quantify the amount of actual damages you contend you suffered as a result of the Defendants' denial as to count one?

MR. KARPINSKI: Objection.

THE COURT: Well let me hear your objection. I'm not sure I'm understanding even the point.

MR. KARPINSKI: Well the - - well actually, I really have two objections, one is to form. That's the first one. The second one is actually to substance, which is we've just gone through a whole litany of actions taken by the State with regard to criminal proceedings involving Mr. Holder. Again, none of that has anything to do with the County. So in essence, Mr. Holder is asking this Court to find that the County is responsible for decisions made by the State in terms of what prosecutions it will entertain and - - and pursue and whether Mr. - - Mr. Holder is going to go ahead and take an *Alford* plea.

And things are totally prosecutorial in nature, totally criminal in nature. And the County has no involvement in any of that.

THE COURT: That's why I asked you about the damages issue. You're talking about because of the lack of - - or the restrictions on the use of the property?

Q: Yes.

THE COURT: That's related to the probation. That's related to the criminal action.

Q: Correct.

THE COURT: The objection's sustained.

Q: Mr. Holder, you obviously hired counsel to assist you in this matter. Is that correct?

A: That is correct.

Q: When you hired my firm?

A: I originally hired Gordon and Simmons where you worked. And then I hired your firm subsequently.

Q: Okay. And you've incurred attorney's fees and costs related to this matter. Correct?

A: I paid attorney's fees and costs directly related to this matter. That is correct.

MR. KARPINSKI: Your - - Your Honor, I believe it's a little premature to be getting into the issue of attorney's fees. I think the Court has to make

some determinations as to, one, whether there's a willful and wanton violation. And then the next issue would be to discuss if that were the case, the reasonableness of the fees, invoices, which I haven't seen, and there doesn't appear to be anyone here who would be providing testimony regarding the fairness or reasonableness of those fees.

THE COURT: Well if the Court finds in favor of the Petitioner, then under the statute, potentially attorney's fees are available as damages. So unless you're gonna bifurcating the case, the Plaintiff, the Petitioner can present evidence in this regard whether it is even looked at by the, not looked at, whether it's even a basis for any ruling by the Court other than a denial is a question of whether the - - the Petitioner prevails. Not unlike run of the mill auto accident case where you present your damages and you present your negligence claim. If you don't get by the negligence claim, you don't get into the damages. Overruled.

Now as far as reasonableness and so forth, reasonableness may be the Court can find by basis of reviewing any detail presented on damages with respect to attorney's fees just by the Court's experience, without expert testimony, maybe. Secondly, with

respect to whether these documents and this information was shared with the Respondents, that's another issue. As I - - if that's a discovery violation in this case, if that's where you're at.

Q: Well may I address that? The - - the Defendants issued no discovery request. So we provided no discovery because they didn't ask for it. Secondly, there's no - - there's no requirement to recover attorney's fees that the Defendant's violation be knowing and willful. That - - that part - - that language is not present in the statute, which I…

THE COURT: That would have a significant bearing. I hear you, a significant bearing on the Court's discretion to award attorney's fees.

Q: Fair enough, Your Honor. Mr. Holder, what was the document number that I handed you?

A: 48, Plaintiff's Exhibit 48.

(Plaintiff's Exhibit No. 28 Marked for Identification)

Q: Can you identify Plaintiff's Exhibit 48 please?

A: It's a retainer agreement dated February 11, 2021, that I signed to hire Gordon and Simmons to represent me in Public Information Act matters relevant to the Defendants, Washington County, Kirk C.

Downey and B. Andrew Bright.

Q: Okay, and I was at - - I was a member at Gordon and Simmons at the time that you engaged Gordon and Simmons. Is that correct?

A: Well that was my understanding, your representations to me.

Q: All right. Your Honor, I move Plaintiff's 48 into evidence.

MR. KARPINSKI: Objection.

THE COURT: 48, noting the objections is admitted.

(Petitioner's Exhibit No. 48 Admitted Into Evidence)

Q: Mr. Holder, I'm handing you what's been marked as Plaintiff's Exhibit 49. Can you identify this document for the record please?

(Petitioner's Exhibit No. 49 Marked for Identification)

A: Retainer agreement dated March 12th, 2022, to the firm Remus, Weddle and Cavenee. I - - I did sign that on March 12th, 2022, acknowledging I wanted your new firm to represent me in these matters.

Q: Your Honor, I move Plaintiff's Exhibit 49 into evidence.

THE COURT: Over objection, 49's admitted.

(Plaintiff's Exhibit No. 49 Admitted

Into Evidence)

THE COURT: I assume…

MR. KARPINSKI: Yes, Your Honor.

THE COURT: …over objection.

MR. KARPINKSKI: Yes. Thank you.

Q: Mr. Holder, I'm handing you what's been marked as Plaintiff's Exhibit 50.

(Petitioner's Exhibit No. 50 Marked for Identification)

A: Are you going to represent to me that these are all the bills I paid to Gordon and Simmons?

Q: Well if - - if you look through the - - can you - - can you just look through the document please?

A: Looking through the document here. Yeah, I have invoices from Remus, Weddle and Cavenee, there's probably 50 pages of documents here.

Q: Can you identify this document for the record please?

A: Well without going through it line by line, generally it is a compilation of invoices I've paid to either Gordon and Simmons, LLC. I recognize paying these bills as well as invoices from Weddle, Remus, Cavenee firm throughout the course of this litigation.

Q: Okay. And the first page, it starts with an invoice from Gordon and Simmons, it looks like dated

March 31st, 2021. Is that correct?

A: That is correct.

Q: Okay. And going toward the back end, the last invoice is from Remus, Weddle and Cavenee LLC dated October 22nd, 2023, Invoice 887. Is that correct?

A: Okay, Invoice 887, yes.

Q: Okay.

A: I have not made payment on this invoice.

Q: Okay. And you have - - you've received these invoices from my firm, my former firm at Gordon and Simmons, LLC, and my current firm, Remus, Weddle and Cavenee. You've received invoices from my firms throughout the course of your representation. Correct?

A: That is correct.

Q: Okay.

A: There are also invoices from Integrity Investigations in here.

Q: And who - - who is Integrity Investigations?

A: That - - I believe that's Todd Webster's company. He's a process server, local process server.

Q: And did you incur costs with respect to Integrity Investigations and processing, I believe they're called?

A: In order to serve, you know, process for this

case, subpoenas of the witnesses at trial and several last summer some depositions.

Q: I believe there's also an invoice in here related to a Jackie Smith charge. Who is Jackie Smith?

A: Jackie Smith is a court reporter that I use when I take depositions, and she took Mr. Bright's deposition in this matter. And I do see that invoice in here.

Q: Okay.

A: $755.

Q: Okay. Your Honor, well actually let me ask a couple more questions. Mr. Holder, you've had - - have you had occasion to hire other legal counsel in the Frederick, Maryland, and Hagerstown, Maryland, areas?

A: Yes. I hire legal counsel on a regular basis for numerous matters.

Q: Okay. And have you hired those counsel for matters, other counsel, not my firm, but other counsel for matters related to civil litigation?

A: Yes, I have.

Q: Are you familiar with the prevailing legal rates for attorneys practicing civil litigation in the Hagerstown and Frederick areas?

A: Typically, it's $400, $450…

MR. KARPINSKI: Objection.

A: …an hour.

THE COURT: Lay a little bit more foundation if you - - if you can. So sustained at this point.

Q: Have you - - have you paid other firms, not myself, but other firms in the Hagerstown and Frederick area, I'm sorry, Frederick, Maryland, areas for civil litigation work?

A: Yes. Most recently, I paid a bill. It was $400 an hour.

Q: Okay. And my rate on these invoices, let's just look at the first - - the first page, the very first page of Plaintiff's Exhibit 50. My rate on this at this time in Mar- in March of 2021 was $275 an hour. Is that correct?

A: The document reports it be $275 effective rate.

Q: Okay. Can you turn to the - - the last invoice that you previously looked at Remus, Weddle and Cavenee? It's Invoice 887.

A: Okay.

Q: And my hourly rate remains $275 an hour. Is that correct?

A: According to this invoice, that is correct,

887, $275 rate.

Q: So during the two years of this case, I haven't raised my hourly rate. Is that correct?

A: I've never seen an invoice for anything other than $275. Sometimes it's been less.

Q: Your Honor, I move for admission Plaintiff's Exhibit 50.

MR. KARPINSKI: Objection.

THE COURT: 50's admitted over objection. And I'll evaluate the evidence presented on that and through testimony giving it the weight it deserves. And if we get there, the Court's experience and on the bench in terms of seeing enumerable bills from attorneys, certainly in the Frederick area, not quite Hagerstown, but just disclosing it, I would also, like, evaluation from my experience on the bench.

(Plaintiff's Exhibit No. 50 Admitted Into Evidence)

Q: Thank you, Your Honor. Mr. Holder, I'm handing you what's been marked as Plaintiff's Exhibit Number 51.

A: Okay.

(Plaintiff's Exhibit No. 51 Marked for Identification)

Q: Can you identify this document for the record

please?

A: Well I've never seen it before, but it purports to be…

MR. KARPINSKI: Objection.

THE COURT: Problem?

Q: I'm sorry?

THE COURT: You got a problem.

Q: I do. I do. I was trying to make it easier for the Court so the Court doesn't have to get out its calculator, but okay.

THE COURT: You…

Q: Your Honor…

THE COURT: If - - if it is a compilation from prior exhibits, you could offer it to the Court just to for illustration.

Q: Yeah, that's what I'll do. I'll - - not ask any questions but just offer to the Court as a - - a summary - - a summation of the - - of the fees that have been incurred through October 22nd, which I believe was Sunday, does not include yesterday or today's activities before this Court. This is a compilation of fees and costs, which I hope to accurate because I prepared it.

THE COURT: Okay.

Q: And I offer it as Plaintiff's Exhibit 51.

THE COURT: The Court will accept that as a demonstrative exhibit. But that's only the basis for it.

(Plaintiff's Exhibit No. 51 Admitted Into Evidence)

Q: I'm sorry, Your Honor?

THE COURT: That's the only basis is as - - as a demonstrative exhibit that counsel represents is a compilation of the other exhibits actually admitted into evidence.

Q: Thank you, Your Honor. I don't have any further questions.

END DIRECT EXAMINATION

THE COURT: Cross.

CROSS-EXAMINATION

By Mr. Karpinski:

Q: Good afternoon, Mr. Holder.

A: Good afternoon, Mr. Karpinski.

Q: Let me start with when did you first submit your first MPIA request to Washington County?

A: I think my first request I submitted would have been April 15th or the 17th. I submitted two. One was on roads around Keedysville and the other was on utilities in Keedysville.

Q: And would that have been in 2020?

A: It would have been in 2020, I'm sorry.

Q: Okay. And those involve the roads around Keedysville?

A: Yes.

Q: Okay. And since then, approximately how many MPIA requests have you submitted to Washington County?

A: Well I kind of think that all of them are an iterative process looking for the same information. I don't know that I've submitted - - they - - they all sort of just kept rolling off of the same request trying to find the same documents to narrow the search or to research. I've seen a list from the County, where they have over 150. I think in the other case. I think you submitted a spreadsheet with one of your motions that showed potentially over 100 and - - close to 150 perhaps.

Q: And you wouldn't question that number. Correct?

A: No. There's - - there's been a numerous amount of Public Information Act requests.

Q: And when you - - when you say there's an overlap, in fact, sir, you - - you submitted MPIA requests regarding water and sewer issues, property disputes, cybersecurity breaches, emails from and to Ms. Morral, Mr. Levey, law enforcement and a variety

of other subject matters, have you not?

MR. WEDDLE: Objection. Relevance?

THE COURT: Overruled.

A: I submitted MPIA requests to some of those subject matters. I don't know that I've submitted a -- a MPIA about any property disputes or anything like that in the County. I've submitted water and sewer trying to find the basis of water and sewer. I spend a tremendous amount of my resources and what's become the taxpayer resources over what is this, I don't know what to call it between Estes and Mr. Michael, what they're doing with these emails, but it seems like both parties here submit tremendous resources over that particular PIA request.

Q: And in terms of Keedysville, isn't it true that you submitted over 100 MPIA requests to Keedysville?

MR. WEDDLE: Objection. Relevance?

THE COURT: No. I mean if nothing else it goes to the discretionary issue of attorney's fees, if nothing else. So that's saying it is not irrelevant otherwise. Overruled.

A: Yes. In March, I let the Town of Keedysville know that I was no longer operating as a project manager. I was looking as a member of the public to

investigate why we have water and sewer polluting our creeks, polluting our rivers, what's going on in the Town of Keedysville. A lot of those requests, if I send it to the County, is the same as what I've sent to the Town. Each and every time, I uncover a little bit more. It leads to further inquiry, and I just have - - I - - I feel like I'm getting close to a resolution, but I don't think I'm quite there yet.

Q: And how about - - how about the Department of Natural Resources, what - - how many emails - - how many MPIA requests you think you've sent to the Department of Natural Resources?

MR. WEDDLE: Same objection, Your Honor.

Q: Overruled.

A: I've sent a substantial number. I'm a frequent requester. I report on these public disputes to news media to - - I just had a story from Levi Trumbull run off of it. Ken Buckler fronts stories. So I submit a lot of…

Q: So you could…

A: …Public Information Requests.

Q: …you can just give me a number. If you - - do you think you can give me a number? You just give me a number of how many MPIA requests you think you've submitted to the Department of Natural Resources.

A: I'm not sure, but there's a public record case C-21-CV-22-1474. And the Court could probably take judicial notice in that case. They filed - - DNR's filed some exhibits. I would be guessing if I said. I don't - - I don't remember, but it could be - - if I said between 50 and 100, I think that would be fair. I don't - - I don't know the exact number.

Q: Okay, so we're about between Department of Natural Resources, Washington County and Keedysville, we're talking about over 300 MPIA requests since April 15 of 2020 to the present. Correct?

A: And I still don't have an answer why there's sewer flowing into the creek. That's correct.

Q: Well, sir, as we have sat here for this trial, the MPIA requests continue to flow in. Because isn't it true that on October 14 of 2023 at 4:48 on a Saturday, you submitted an MPIA request regarding Board of County Commissioner minutes from the 1990s. And you'd like to inspect all minutes from July 1, 1993, through January of 1994. Did you submit that request?

A: Yes. They weren't available…

MR. WEDDLE: Objection, Your Honor.

A: …online.

MR. WEDDLE: Relevance?

THE COURT: Overruled.

A: And Ms. Jacobson kindly put them back online. I think they were errantly omitting. So that should have helped everybody in the public that wanted to review those minutes that weren't available to them online.

Q: And then Sunday, October 15 of 2023, at 9:48 a. m., you submitted a request to a Jill Baker. Do you know who Jill Baker is?

A: Yeah. She's the head of the Planning Department. And I submitted with an attachment of a resolution in Smithsburg where they took properties that didn't - - that - - that were in S1 sewer, and they took them out. They used their discretion. They said, "Hey, this is gonna be a problem if they ever have to fix these septic systems." And I also noted that the new comprehensive plan places these properties in wellhead protection. So if the septics failed, we'd be polluting the wells. And I thought it was important for her to review that decision. I wanted to make her aware of the fact that she has done absolutely nothing. Even though she told me she was going to do something before the new 2040 plan, she's done nothing to - - to change the representations to the federal government, the state government and the

public that these properties are in an S1 zone that are polluting the Little Antietam Creek.

Q: And then to sort of just switch things around, on Friday, October 20 of 2023, you submitted a MPIA request regarding Korean Airline tickets travel receipts. And let me just read it, "Mr. Downey, Dear Mr. Downey, I would like to inspect all airline tickets, meal expenses, lodging receipts, entertainment expenses and transportation expenses associated with County employee travel to the Country of Korea in the last five years October 2018 through October 19 of 2023." And that - - that was submitted on October 20. Correct?

MR. WEDDLE: Same objection, Your Honor.

THE COURT: Overruled.

A: Correct. That was submitted in collaboration with Ken Buckler and investigating why we - - I - - I believe we spent over a half a million dollars traveling to Korea. I don't know if it was for the Hitachi Rail deal, if it was in this real estate deal, but the County's spending money on certain things. I'm concerned, the public's concerned, why we're spending our money in certain places. I want a report on that.

Q: And then on October 22 at 2- at 3:20 in the

afternoon, you submitted another MPIA request to Mr. Downey and you'd like to be provided a copy or inspect any and all emails sent between the email, the address joneal@washco-md.net and any County attorney or staff member in the County Attorney's Office related to the search of the computer - - County computer storage infrastructure in response to an MPIA request for the previous two-year period. And then you go ahead, and you give a two-year range. Did you submit that on October 22?

A: I was interested in whether they're double deleting documents, whether we're retaining these records. What - - when somebody asks for a PIA, they can expect to get their documents. Do you need to send a preservation letter? I need to shed light on this controversy that some MPIAs just get deleted when you ask for them. And others, you know, maybe they preserve them.

Q: And you were here for Mr. Greivell's testimony. Correct?

A: I was.

Q: And if you want to look at Exhibit 21.

A: Okay.

Q: At page 3…

A: Hang on. I don't - - I don't have it yet,

sir.

Q: Have you got to it?

A: Just hold on. Please. Hang on. I'm almost there. Got Mr. Greivell's testimony. You said page 3?

Q: Page 3, yes.

A: Okay, I got page 3.

Q: Okay. And just so it's clear, are we in agreement that this is an October 19, 2020, letter from Mr. Greivell, your attorney, to Joe Michael, former Deputy State's Attorney, now Judge Michael?

A: That - - that's my understanding of what Exhibit 21 is, sir, yes.

Q: Okay. And it says at the bottom of page 3, "Mr. Holder has ongoing disputes with at least the following third parties: a number of private property owners in Keedysville (Christine and Scott Morral, Jeffrey Young, Benjamin Estes, potentially half of the Stonecrest Development, etcetera.)" Do you see that?

A: Yes.

Q: And how large is the Stonecrest Development?

A: I believe 26 houses, don't quote me, somewhere in that area.

Q: So do you concur with Mr. Greivell's assessment that you have problems with approximately

13 of those property owners in the Stonecrest Development?

A: I agree with his assessment to the extent that the County sent me this developer agreement that said I needed to obtain easements across private property. And at the same time, Mr. Michael was telling me not to drag third parties in. So in order for me to obtain the easements across this other private property in this developer agreement, I was going to be forced to file suite for whatever interference or easement I had. And in order to obtain the sewer line, yes, I was being forced into this litigation for unknown reasons. That is why I was asking for all this information.

Q: It goes onto say that you're having ongoing disputes with the Town of Keedysville. What - - what were the ongoing disputes with the Town of Keedysville?

A: At that time, the Town of Keedysville had - - I - - well that's - - that's a complicated one. Generally, it's Mayor Lord sent me a letter offering that if I provided piping, he was gonna install a sewer line. I read the Town Charter. Town Charter said the Town's responsible for sewer. The Town's telling me County's responsible for sewer. I'm asking

the County for the agreement. The County's saying, "We don't have the agreement." The County's saying, "Sign this developer agreement. Go get me an easement." I'm saying, "I can't get you an easement. I'm finding in the 41 sewer box, when the sewer was put in as I remember, the district gets all the easements and gives them out to everybody in the zone. I'm - - I'm not the one that gets the easements. The County has to get the easements.

Q: And what was the ongoing dispute with Boonsboro?

A: The Town of Boonsboro was withholding the public information related to the DNR. The Town of Boonsboro's sewer plant failed. It polluted all the wells on the east side of 34. They collected sewer taps, this is - - this is upon a public information respect, Town of Boonsboro collected sewer tabs to the tune of 14 some million dollars from 1200 lots to upgrade the sewer plant. It's above capacity. DNR pulls back the recharge area on Greenbrier. They're bankrupting the developers. Keedysville can't give me water taps on this property. I'm asking for the public information on the allocations. I'm trying to ascertain the reason why we're taking and representing to the U. S. Department of Agriculture that all the

properties in Keedysville are hooked up and connected to the water system to obtain millions of dollars of loans for this Main Street project and yet we can build a brand new development with $750,000 houses next to these properties. And these poor people that we got these properties from went for years without water, without sewer, and we're just leaving them live in a third-world country for no reason. And I'm agreeing to pay for most of this stuff.

Q: And how - - and how many MPIA requests have been sent to Boonsboro?

A: Probably four, me and Mr. Montello and the Mayor Howard Long, I - - I sat down and ate lunch with them at Red Bird, and we - - we resolved all the issues.

Q: And how about your disputes with Sharpsburg?

A: Sat down with Russ Weaver came over to the house. We resolved that with Jacob Martz and some candid conversation about one MPIA request, maybe two.

Q: I don't think we need to relive Washington County. How about the Washington County Health Department?

A: Two requests to those Washington Health - - County Health Department sent notice to, as far as I'm aware, sent notice to Lee Curry and Governor Hogan.

Governor Hogan inquired to the Town of Keedysville. The Town of Keedysville, according to the letter I have from Governor Hogan, represented to the State that they were putting the sewer and the water in back in October of 2020. They're gonna put it in, take care of it.

Q: Okay. And how about the Maryland Department of Health?

A: Just one. I was looking for the 201 EPA plan that I was told, I think, five times by the County they didn't have it. Came in on the inspection. Mr. Bright referenced January 6th, found it right in the sewer box.

Q: We've already talked about Department of Natural - - so how about the Maryland Department of the Environment?

A: Okay experience with them about 12 MPIAs, filed suit on them. They produced the documents. After I filed suit, the document showed that the County did not have a plan from the ten years following next in conjunction with Environmental Article 9-503, this is after the County's admitted they don't have any triennial reports after 9-503(b) of the ordinance. So they're in total violation of both ordinances.

Q: Okay.

A: Or, I'm sorry, statutes.

Q: And how about the State of Maryland?

A: Writ large?

Q: Well, yeah, the State of Maryland writ large, whatever that - - what does that mean?

A: In general, I think it's ridiculous that when you ask for public information to fix an environmental matter in Keedysville, you get retaliated on by not just your neighbors, not just the County Attorney. What I don't understand what Mr. Michael sought to accomplish with his actions. I really don't.

Q: Okay. And how about Fred Frederick of Frederick, Seibert and Associates?

A: Frederick, Seibert and Associates did the original survey for me. He claims in another case that he did it for Uncle Eddies. I think I asked him as a licensee to show me the property. He concealed from me the boundary lines. He adopted the boundary lines he falsely put in in 1991. Probably that's the origination of this entire dispute because behind Ms. Morral's house was the stone marker from 1792 that I found with George Nagle that confirms that Mr. Frederick moved the property line 25 feet west, and he's concealed this fraud for 25 years.

Q: So though in summary though, what we learned really from Exhibit 21 is that as of October of 2021, you have all these disputes going on with all these entities and your lawyer is conveying that to the Deputy State's Attorney. Is that correct?

A: I think that's what he was trying to explain to Mr. Michael, yeah, that these third parties, I don't know which one to not drag in. I think that's correct.

Q: So you were here for Judge Michael's testimony, and he said that he was well aware of all the problems that you were having with your neighbors and with other entities. And it sounds like that is reinforced by what Mr. Greivell told Mr. Michael.

A: I don't think that's accurate. I think Judge Michael said he threw it in a drawer and wasn't going to read it, didn't care. He was gonna prosecute me for his friend, Ben Estes, no matter what.

Q: Okay. And since 2021, would I be correct that you have filed nine lawsuits?

A: I don't know that that's accurate. I think that I've had lawsuits filed against me, which would have been Jeffrey Young and Benjamin Estes about two, three, well two. And…

Q: Well let me - - let me see if I can help you

here.

A: Okay.

Q: Justin Holder versus the State of Maryland Department of the Environment. That looks like that was in Baltimore City. In the Matter of Justin Holder, Anne Arundel County Circuit Court, In the Matter of Justin Holder, Washington County Circuit Court, Justin Holder versus Scott Morral, et al., Washington County Circuit Court; In the Matter of…

A: Could you give me the case numbers…

Q: …Justin Holder…

A: …sir?

Q: Washington County Circuit Court.

THE COURT: He - - do you have a question to clarify the…

A: Just to clarify please just the case numbers just so I can - - I know them by case number.

Q: Okay. That's - - that's impressive. I've got to tell you. Can I just give you the last three?

A: Yes.

Q: That would help?

A: Well the last four in the case of DNR.

Q: Last four in case of DNR. That would be the Maryland Department of the Environment one?

A: Oh, no, that's the Baltimore City one.

Q: Okay. It says 2458, 1474, 0063, 0420, 0016, 0036, 0371, 09- 0097, 0116, 0434, and then it looks like a peace order that was closed out in July of 2020. Is that correct?

A: Well there's probably some other peace orders that got expunged or whatever you do with peace orders, and then there was about ten criminal charges that all got dismissed as well and that's in the last two years. Lawsuit 420 and 116 are derivative of 430 and 371. I was very adamant in the court that we needed a 2-211 joiner. We couldn't get complete relief that these cases weren't joined. And sure enough, the Plaintiffs were successful in their argument to the court that they didn't need joined. Now we're up in appeals that basically, poor Mr. Young claimed a 12-foot strip of land, and it's actually 25 feet wide, and here he's waived his right to the other half. We've got a mess.

Q: So since 2020 to the present, how many peace orders do you think have been filed and have been adjudicated or brought to the Court's attention?

MR. WEDDLE: Objection. Relevance?

THE COURT: Overruled.

A: I know of at least 4 filed against me.

Q: And who filed the peace orders against you?

A: Scott Morral, Christine Morral, they dismissed. Jeffrey Young, he was denied. And the very first one that Mr. Michael testified about where Mr. Estes was in court, and he overhead it in front of Mr. - - Judge Thomas, I handed him the letter attached to another exhibit from Frederick Seibert, and he saw that we had a property dispute. We agreed to go to mediation first and mediate that. And I - - and I will assert to you, that had we done that, I don't know that any of these lawsuits would have been filed. But Mr. Estes didn't show up.

Q: So and how many - - in terms of criminal proceedings, how many criminal proceedings have you been involved with since 2020?

A: Well I've had the charges that were a matter of this exhibit and the DNR charges basically that's - - that's the only ones that I, you know, unless there's some secret investigation.

Q: Okay. But you've also filed criminal charges against other individuals. Correct?

A: Just only Ms. Morral for the wiretapping. I think she got a fair sentence.

Q: I thought you said there - - there were ten criminal proceedings. Are you say they're more like four or five?

A: Well I think there were ten criminal charges total. I think there was four and then the two trespass and then the three charges. So three plus five, nine, I'm sorry.

Q: Would you agree with me that the peace orders, you'll have to educate me on this, were the peace orders filed - - they were filed by citizens?

A: They were filed by citizens.

Q: Are they litigated by the citizens or is there some - - someone in the District Court that does that?

A: Well they're *ex parte* from my understanding initially. And then at the final peace order hearing, you - - you get a trial and they're - - they have to prove that a crime has either been committed or is likely to be committed in the future to grant them the relief they're requesting in the peace order.

Q: The four criminal proceedings though, you'd agree with me that the State's Attorney's Office for Washington County was involved in those. Correct?

MR. WEDDLE: Objection.

A: I don't know that I would agree with that. They…

THE COURT: Well I think given a time frame. What's your objection?

MR. WEDDLE: What - - perhaps he can clarify.

What - - you said four criminal charges. What - - which criminal charges are you…

Q: I thought he said four cases and that there were actually ten criminal charges.

MR. WEDDLE: He said nine.

Q: Okay. Well I - - I asked…

THE COURT: Okay, well…

Q: …the number of cases. Four cases, those cases were handled by the State's Attorney's Office for Washington County. Correct?

A: From my understanding, they were sitting in some hole waiting to go to trial. I don't know what, you know, they were filed pro se. I don't know what time the State's Attorney actually picks those up and investigates because it sounded like there was no investigation by the State's Attorney according to - - to Judge Michael's testimony that they were gonna sit in a drawer and then maybe at some point before trial, they were gonna pick them up and say, "Do we want to prosecute these?"

Q: Sir…

A: That's my understanding.

Q: Sir, do you know who prosecutes matters in either the District Court or the Circuit Court for Washington County?

A: Prosecutes matters as far as civil complaints, peace orders?

Q: Criminal matters, criminal matters.

A: I - - as far as I know, all criminal matters that get prosecuted, when they actually appear at trial, would be either a - - I don't think the State's Attorney does. I think the deputies or the assistants or whoever the Board of County Commissioners hired to do that.

Q: Well what would be the basis for your belief that the Board of County Commissioners hires anyone to prosecute matters?

A: I think I read it, and I misquoted it earlier as 15-502. 15-422 of the Criminal Article, I think says the Board of County Commissioners has to hire these people.

Q: The Board of County Commissioners has to pay for those services just like they have to pay for services from a variety of other state agencies. But do you have any reason to believe that the Board of County Commissioners exercises any control whatsoever over the State's Attorney and the individuals in the State's Attorney's Office?

MR. WEDDLE: Objection, form.

THE COURT: Overruled.

A: Well it would seem like that would be a deliberative process privilege that I wouldn't be aware of. However, I know when I hire somebody for my business, if I stop paying them, that's sort of like terminating them. So I think I would have control over who - - who I give a paycheck to.

Q: Well my question is, quite frankly, government works a lot differently than someone in private industry. My question was simply, sitting here today, and if the answer's no, just tell me the answer's no. Sitting here today, do you have any basis to believe that the Board of County Commissioners exercised any control whatsoever over the State's Attorney's Office and the individuals employed by the State's Attorney?

MR. WEDDLE: Objection.

A: Yes.

MR. WEDDLE: Form, asked and answered.

THE COURT: Overruled.

Q: And what is - - what is the basis for that?

A: I believe that Mr. Downey and - - and probably not Mr. Bright, but I believe that Mr. Downey talked to Mr. Michael, and he didn't want me asking for public information. A portion of what Mr. Michael was doing was at the command of Mr. Downey. I have no evidence on that. It's just a gut instinct.

Q: So you don't have any evidence on that. That's just speculation on your part.

A: Haven't - - haven't looked for evidence other than what I was asking for in the PIA.

Q: So let's look at your - - your first PIA dated…

THE COURT: Would this be an okay stopping point, do you think, Mr. Karpinski?

Q: What's that?

THE COURT: Would this be an all right stopping point for a break?

Q: Whenever Your Honor wishes to stop, I stop.

THE COURT: No, I don't want to…

Q: Yeah, you're fine.

THE COURT: I don't want to mess you up in…

Q: Yeah, that's fine.

THE COURT: …the process. Okay, why don't we take about a 15-minute break.

(Whereupon this matter went into recess from 2:34 p. m. until 2:51 p. m.)

THE COURT: We still have - - it's a great start. We still have Mr. Holder on the stand. We'll resume cross-examination.

Q: Thank you, Your Honor. Mr. Holder, prior to August 3 of 2020, do you have any idea of how many

MPIA requests you had submitted to the County?

A: If I said a dozen, that might be fair. I - - I don't know.

Q: Could it be more?

A: Could be, could be.

Q: Okay. So would you agree with me that although you didn't necessarily always agree with what the County did, you were - - you found them to be responsive to your request?

A: No. I would disagree with that. Some of them, they just didn't respond to. There was the 201 agreement, which was really disappointing to me. I asked four times, found it in a box. I found that the - - I had to dwell on every word that the County sent me. If there was an, "S," on a word, it meant there was more than one record. If it said, "Resolution," and I didn't say, "Inter-municipal agreement," or something like that, I didn't get my documents. It ended in me really having these very broad PIA requests that seemed overly burdensome. And then I would attempt to narrow them down, and I just couldn't get any collaboration at all from the County Attorney's Office no matter how hard I tried, no matter how many public interest requests. Said, "Look, this is costing people money. We need to

resolve this. Look, I just need these documents." Didn't matter how I asked them how many different ways, it was always a fight. It was like pulling teeth to get these documents out. It was like Christmas when I actually got production.

Q: I thought you had testified on Wednesday that you were generally 9- - I thought I wrote down 90% to 95% satisfied with the responses that the County gave you to your MPIA requests. Did I misunderstand your testimony in that regard?

A: Absolutely. I - - I - - I remember that testimony, and I appeared at a County Commissioner's meeting. And I told the County Commissioners I was 99% happy with the total job performance. This is a big county. I think that I - - I would - - even though they say I'm in a league of my own with these PIAs, it has to be less than 1% of the business done at the County. It has to be.

Q: Okay. So let's look at your Exhibit 1, Plaintiff's Exhibit 1 is your actual request…

A: Okay.

Q: …that you submitted to Andrew Bright and Kirk Downey that said, quote, "Please provide all email correspondence from the following email address, quote, 'morral@msn.com,' and any sheriff, deputy,

county official from May 19th to the present." That was your request. Correct?

A: On page 3, that - - that's accurate.

Q: Okay. And the next day, you received a response to that request. Correct?

A: I did.

Q: Okay. So why don't we take a look at that. That's Exhibit 24, Petitioner's Exhibit 24.

A: Petitioner's 24. Okay, hang on a second here. Okay, I have that one.

Q: So and before I get to Petitioner's Exhibit 24, you were looking for emails with Ms. Morral because you were having ongoing disputes with her. Correct?

A: No. I was looking for two reasons. One, I think I tell Mr. Bright when he sends this denial letter in my hand, 24, "Hey, if - - if you don't want to give them to me, that's fine. Go ahead and give them to the State's Attorney. It's the wiretapping." I wanted to deliver to them. And then initially, also, with the Sheriff's deputies, I was trying to understand what the government was telling Ms. Morral that she said I was a liar. I was crazy. What - - what information were they giving her that these properties, similar situated properties weren't being

treated equally? And what was the rational basis for that? I was trying to understand the environmental matters of public import.

Q: Well you just told me what you wanted was the State's Attorney's Office to be given the records. And in fact, the State's Attorney's Office was given the records.

A: That's correct.

Q: Okay. So you got what you wanted.

A: I did. I - - I…

Q: The State's Attorney's Office got what you - - that point behind your request on August 3 was for the State's Attorney's Office to get these records. They were forwarded to the State's Attorney's Office. Is that correct?

A: Well not according to Judge Michael's testimony. He didn't say they gave you the wiretapping in the Levey email. I think that got deleted. I think that got hidden. I think my justice got obstructed in that matter. I think that's the testimony in this case, if I remember correctly.

Q: Do you have any reason to - - to dispute Exhibit 1…

THE COURT: Back up on that.

Q: What's that?

THE COURT: Sorry to interject here, but that answer was not responsive, not what somebody else testified to, but whether or not the requested documents were passed along to the State's Attorney's Office, whether or not that was done. So I would think that that question would be fairly to you.

A: I'm sorry, Your Honor.

THE COURT: Mr. Holder, and not just reciting somebody else's testimony with which you may or may not agree. So if you do have an answer to that question, that would be, I think from my perspective, an important piece of information to have.

A: To my knowledge, I don't know that these documents were transmitted to the State's Attorney's Office. I have no personal knowledge of that.

THE COURT: Okay, thanks.

Q: Okay.

A: I apologize, Your Honor.

THE COURT: No - - no need to apologize.

Q: Well let me ask you this, do you have any reason to dispute the email chain in Exhibit 1, where Josh O'Neal forwarded 16 emails under the parameter specified by Mr. Holder? And then it looks like that was then sent by Mr. Bright to Joe Michael with the records that were yielded from the search. Do you

have any reason to believe that didn't happen?

A: I do have a reason to believe that didn't happen.

Q: Okay. Factually, not - - not speculatively. Factually, what - - what information do you have that would suggest that the email chain is somehow inaccurate in some respect?

A: Well because the County has spent tremendous resources in another suit rather than just typing forward - - typing in my name and pressing send to deliver me that ZIP file, which Mr. O'Neal testified that Barry Levey had 45,000 emails on June 15th. Barry Levey testified he deletes his emails when they reach 20,000 and that happens every six months. This request was made 1.5 months afterwards. So he would have to have four times the normal amount of emails in order for him to deleted the email. I suspect that that ZIP file was in there…

Q: Mr…

A: …and it didn't get transmitted to Mr. Michael.

Q: Mr. Holder, we'll get along a lot better if you just focus on answering the question I have. That I'm not asking about Mr. Levey's 45,000 emails. I'm asking you about Exhibit 1, where there's an email thread, that there's 16 emails that fall within the

parameters of your request. And if I follow that chain, it appears that Andrew Bright, follow that to Joe Michael, and Joe Michael then wrote, "Ongoing investigation and pending charges." And you have been here for the testimony of Mr. Bright and Judge Michael. So do you have any reason, factual reason, not speculation, factual reason or evidence to suggest that that did not occur here?

A: Yes. Mr. Levey and Mr. O'Neal's testimony that I just answered. I - - other than that, the document speaks for itself, Mr. Karpinski.

Q: Okay. So let's look at Exhibit 24 then.

A: Okay.

Q: This is the response you got from Mr. Bright the following day, August 4 of 2020. Correct? This is Petitioner's 24. Is that correct?

A: That's correct.

Q: Okay. So the response is, "Your - - your request is denied pursuant to General Provision Article 4-351. A custodian may deny inspection by a person of interest of records of investigations conducted by a State's Attorney. The State's Attorney's Office has advised that the records you have requested are in fact records of an ongoing investigation and involve criminal prosecution.

Therefore, I must deny your request." You see that?

A: I do.

Q: Okay. What efforts did you make to contact the State's Attorney for Washington County to ascertain what was the basis for why they did not wish those records released?

A: I relied on Mr. Bright's representations that he was the custodian in this document here.

Q: So you made no efforts, just so I'm clear, you made no efforts whatsoever to contact the State's Attorney and say, "I got a letter from Andrew Bright that there's this ongoing investigation. I want to know what the deal is with regard to this prosecution."

A: I did…

Q: Is that fair - - is that fair to say?

A: No. I made an effort on September 2nd. I asked Mr., now Judge Michael, we had a conversation. He was walking down the hall at the District Court, and I - - I said, "Hey, it ended," I said, "Is the State not interested in justice?" I asked him that, and he kept on walking. So I was unable - - I didn't know. I thought I had to talk to Mr. Bright.

Q: Okay. But you're a smart guy. You know what the State's Attorney's Office is. Correct?

A: It was closed…

MR. WEDDLE: Objection, Your Honor.

A: …during COVID at that time but, yeah.

THE COURT: Overruled.

Q: Okay. And you know that there is a State's Attorney, not just Joe Michael. Joe Michael's a Deputy State's Attorney. Correct?

A: That's correct.

Q: Okay. So did you contact the State's Attorney and say, "What's the deal here? I think my rights are being infringed upon. I want these records of an ongoing investigation. I'm told that the State's Attorney's Office has advised that these records are in fact part of an ongoing investigation." Did you do that?

A: I - - I did eventually, yes.

Q: Eventually, in 2022?

A: Well, yeah, it would have been August of 2022, yes.

Q: Well you already had the records by then. The County had already given you the records by August of 2022.

A: With all due respect, Mr. Karpinski, 70 records have been deleted. I don't know what I've got and what I haven't. I have no evidence of a lot of

things because that evidence has been spoiled.

Q: Let me show you Respondent's Exhibit 9.

(Respondent's Exhibit No. 9 Marked for Identification)

A: Okay.

Q: Would you agree with me that that is an August 23, 2021, letter from my office to you?

A: That is the, yeah, that's the first page of the letter, yes, sir.

Q: Okay. And it references conversations I had had with your attorney, Jacob Weddle. Correct?

A: "In certain matters, I have exchanged numerous telephone calls with your attorney, Jacob Weddle." The only phone conversation that I'm aware of was a settlement discussion.

Q: Okay. But these records were produced to you as of August 23 of 2021. Correct?

A: I - - I believe that's what I testified to earlier when Mr. Weddle asked me. Whatever he asked me, he gave me an email and said, "Were the records produced in relation to this?" And these were - - these were records I wasn't necessarily targeting with my MPIA. But…

Q: Well do you have any reason to believe they're not the records that were generated as a result of

your search for morral.msn?

A: If Joe Michael's a County official, then absolutely they'd be responsive. I, you know, defer to the custodian. I asked for County official. These were produced. I assume he's a County official, don't know.

Q: So if he - - if he - - I don't understand your testimony. If he's not a County official, how would that - - how would that be different in your mind? How would that change the fact that as of August of 2021, you had gotten these records?

A: I - - I got them. I mean and it doesn't say from the face of this letter exactly what request they were responsive to. On its face, you produced them. I mean my - - my August 3rd, my October 15th requests were asking between a sheriff deputy and a County official. I had no idea Mr. Michael and, I'm sorry, then Deputy State's Attorney Michael and Ms. Morral were speaking at all. I was very surprised.

Q: So let me show you Exhibit 10. And would you agree with me that that is an August 31 email from Jason Parkins and my office to you?

(Respondent's Exhibit No. 10 Marked for Identification)

A: Yes.

Q: Okay. And if we scroll down, if you go to the back, you say on April 23, "Thank you very much for fulfilling my request. I just wanted to add that you missed a few on June 2, 2020, blevey@washco-md.net was forwarded emails from townhall@keedysville.com that originated from Morral7@msn.com." Do you see that?

A: Yeah, August 23rd. I'm on page 3 of the exhibit at the top. "Thank you very much for fulfilling my request. I just wanted to add that you missed a few on June 2nd, 2020, the address -," yeah.

Q: Okay. And that's because you think that the County missed that because you already had this email that was forwarded to blevey@washco-md.net because you had already requested that document and had - - and had obtained it from the Town of Keedysville.

A: I didn't have the attachments, which is what I really wanted, the wiretapping. I was trying to get the wiretapping.

Q: Okay. But you would agree with me that you submitted a request for that email, and you did that as of October 16, 2022. And the Town of Keedysville produced what they had that was responsive, which is Exhibit - - Petitioner's Exhibit 5. Correct?

A: Well I might have seen it before that because I went in and reviewed some records in the early

summer, and I got some paper copies, and I saw some stuff on the computer. I might have known about that prior to October. And I might have just made more of an official request with the town in October. I don't want to say that was the - - the first time I saw that email because that might not be true.

Q: And Mr. Parkins indicated to you that he was attaching Holder PIA requests 1 through 173, and that one email had been inadvertently omitted. That email is dated July 3, 2020, with the subject line, "Justin Holder." Correct?

A: Yeah, right. When he gave me this…

Q: Okay. And when you got those documents, you did not know that prior to Deputy State's Attorney Joe Michael had been sending emails to the County Attorney's Office saying, "They're ongoing investigations. They're ongoing criminal proceedings that involve Mr. Holder." Is that fair to say?

A: Yeah. I - - I didn't know what Mr. Bright - - I mean looking back at it now with all my information, it's a lot more clearer the picture. You know, I, like I said, I genuinely felt Mr. Bright wanted to give me the documents. But at the same time, if Mr. Michael tells me to jump in the fire and I do it, I knowingly willfully did that. It doesn't mean I

should have.

Q: Your Honor, I move for admission of Exhibits 9 and 10.

THE COURT: 9 and 10 are admitted.

(Respondent's Exhibit Nos. 9 & 10 Admitted Into Evidence)

Q: Have we discussed all of your efforts to follow up with the State's Attorney's Office in response to Mr. Bright's August 4, 2020, letter?

A: No. I - - I talked to Mr. Michael about these afterwards at a few different bars at like in the area, Bender's Tavern. I discussed it with him a little bit. I discussed it with him at Antietam Brewery in July of 2022.

Q: That's July of 2022, a year after these records had been produced?

A: Yes.

Q: When did you accuse Ms. Morral of illegally recording a conversation with you and threatening you?

A: I - - I got - - I don't know that I accused her of threatening me. And are you saying like pro se charges when I filed charges?

Q: Yes. When did you do that?

A: I filed the pro se charges, let's see, I think July 29th, I became aware of the video when Talley

Kovacs sent me a copy of - - of the wiretap recording. And then we had a peace order trial. I didn't want…

Q: Mr. Holder, I'm not trying to be rude or disrespectful, but we are trying to make a record that is clear. So when you say, "July 29," are you saying July 29 of 2020?

A: That's correct.

Q: Okay.

A: 2020.

Q: I just want to make sure that we're on the same year, three years later, I get it. So, okay, I interrupted you, and I didn't mean to do so rudely.

A: That's okay.

Q: July 21, 2020.

A: Yes.

Q: 29, 2020.

A: 29, 2020, I get it. We're having a peace order trial. I did not want to inter- interfere with that. So I waited until after the peace order trial had concluded. I filed pro se charges, and I - - I let the State's Attorney know that I had relationship with Mr. Michael, not to have him take the case. And then I sent the request to Mr. Bright. I knew that she had sent the video other places. I was hoping to conclude the criminal proceedings all at once. I

didn't know how many there were at the time, where she sent them, but they were very defamatory, in my opinion, in nature because in the video, you can clearly hear me saying that I'm asking for an injunction that I just want to show that the road's here. I don't want to widen anything out. I want to show there's a road here. I want to go get an injunction for the fence. And I actually just three days earlier asked Mr. Downey to file a TRO to get the road open and to get the illegal fences out of the easement area so we could get the sewer in. So what she was saying is - - in the video was very defamatory. I wanted to see how far that reached in government and maybe that was why government was treating me so differently.

Q: And let me ask you this, were you aware of the fact that Ms. Morral was contacting Mr. Michael and asserting that you had physically threatened her?

A: I wasn't aware she was contacting Mr. Michael. In fact, I didn't think that happened at all. I thought she was contacting everybody else. I thought she was contacting the Sheriff's Office. I thought she was contacting the Natural Resources Police. I thought she was contacting the Town. I thought maybe she had reached out to Planning and Zoning at the

County, asking, "Hey, why - - why don't these properties have sewers? It's a problem. Do I have an easement? Is there a road in my backyard?" Perhaps County engineering, some of the places I was asking. Because I had given her a substantial number of documents on May 20th when I knocked on her door kindly and explained to her the problems I was having with the sewer and the water and the easements. So I knew she had a lot of information that was very credible because it was out of the Land Records and out of the public records and the 1936 Atlas that hangs down below that shows that General Braddock's Road went right through her backyard. And I just kindly tried to tell her that that was there, and we might need to use it for sewer. I wanted to get it surveyed, and I had this onslaught from me of the Mayor sending emails. I think the public record in Keedysville shows the Mayor sent to Doug Mullendore and said I was a drug dealer. I mean…

Q: You're talking about Mayor Lord, the Mayor of the Town of Keedysville?

A: Mayor of the Town of Keedysville, yes, sir.

Q: Okay. Were you aware of the fact that Ms. Morral was telling Judge Michael that you were threatening to destroy her personal property, namely

her fence?

A: No. And that wasn't true. I never threatened to destroy her fence. That was the whole problem. She was telling everybody a lie. I knew I didn't do any of the things she was accusing me of. I asked - - I told - - I said I was gonna get an injunction. That's a civil process. That's being very civil.

Q: Well I'm - - I'm not asking you whether it was true or not true. My question was were you aware of the fact that she was contacting Joseph Michael as the Deputy State's Attorney and was alleging that you had threatened her personal property, that you had threatened to destroy her fence and tear it down? Did you know that was going on?

A: Not until you told me on July 21st, not until you told me that. I didn't know she was contacting Judge Michael. And in fact, I didn't even suspect it.

Q: When you say, "July 21st,"…

A: Of 2021.

Q: 2021…

A: Yes, sir.

Q: …when we had our hearing?

A: Yes, sir.

Q: Okay.

A: That was the very first time I became aware of

that.

Q: And you obviously reviewed the records that have been produced that I think are at Exhibit 7 that I've just provided you a copy of. You see that there are emails between Deputy State's Attorney Joe Michael and Ms. Morral, where she asserts that you had engaged in aggressive behavior and had threatened to go ahead and destroy her personal property?

A: That's what she says. It just wasn't true.

Q: That's what she says. I'm saying if it's true or not.

A: Right, right.

Q: I'm saying that's what she has asserted.

A: That - - that's the documents speak for themselves, yes, sir.

Q: Okay. Now the August 4, 2020, letter from Mr. Bright to you says that, "If you are dissatisfied with my decision, you may seek judicial review pursuant to 4-362." Do you see that?

A: I - - well I - - I remember it so.

Q: Okay. And did you seek judicial review?

A: You know, I don't know that I have to seek judicial review. I think that I can ask him to reapply his discretion and make a different decision.

Q: Well, Mr. Holder, we'd get along a lot better

if you just answer what I'm asking. Did you seek judicial review?

A: Eventually.

Q: Okay. Did you seek any review by the Ombudsman?

A: Not on this particular MPIA…

Q: Okay.

A: …that I'm aware of.

Q: Okay. And then you renewed your - - your request on October 14, 2020. Correct?

A: At the end of the wiretapping proceedings, I renewed it, yes.

Q: Okay. And were you aware that Mr. Bright was contacting Mr. Michael to ascertain the status of any investigations as it relates to you?

A: Not at that time. But my suspicions were aroused because as you see in the letter and Mr. Greivell sent, I would have to at least think there - - it would be very unlikely that that wouldn't be the person in the office he was talking to. I just had no personal knowledge of it. It would just be a circumstantial type of thing.

Q: Did you follow up with the State's Attorney in response to Mr. Bright's October 15, 2020, letter which, you know, essentially is the same as his August

4, 2020, letter?

A: To the extent that it was also discovery and to the extent that *Brady*'s supposed to be produced immediately, I - - I guess I did follow up in that regard as far as the discovery angle. But I've never followed up on a PIA because I've relied on the fact that Mr. Bright was answering in his - - as his capacity as custodian of records.

Q: Okay. But you'll agree with me that the letter itself says, "The State's Attorney has advised that the records you have requested are in fact records of a - - of a still ongoing investigation and involve current prosecution?" I mean you don't - - I mean it says what it says.

A: It says what it says.

Q: You agree with that? Correct? And my question to you is, did you take any steps in response to that representation by Mr. Bright to reach out to the State's Attorney or someone in the State's Attorney's Office to say, "What are you talking about in terms on ongoing investigations?"

A: No, because he was answering the request. He was engaging with me. If he would have said, "Hey, go - - go talk to Joe. I'm not answering this," I would have went and talked to Joe. He didn't tell me to go

talk to - - to…

Q: Well…

A: …Mr., I'm sorry, Judge Michael.

Q: You - - you - - you did not - - you did not construe the State's Attorney's Office as advised that the records you requested are in fact records of a still ongoing investigation to point you to the reason for the denial of the request?

A: I really on agents all the time in my business. I rely on my mechanics. I say, "Hey, my mechanic says your head gasket's blown," I don't go necessarily check that the head gasket's blown. I trust my mechanic. I figure if Mr. Bright was relying on his agent and, you know, if he did so, he did it to his detriment.

Q: And you believe that the State's Attorney is an agent of the County Attorney's Office?

A: I believe that agency would attach in this situation because Mr. Bright was seeking advice on how to use his discretion and the records he's responsible for. That's how I perceived it. Don't know that I'm right. Mr. - - Judge Jordan's gonna tell me if I'm right, but that's what I perceived, yes.

Q: Okay. But now that you have the emails and all the other information, you do realize that the

denial that was issued on October 15 was based upon information that was supplied by Judge Michael in connection with what the State's Attorney was doing? Correct?

A: I don't - - I would characterize it a little different. That Mr. Bright reached out to Mr. Michael for some advice. He received that advice. And then he acted knowingly and willfully based on that advice. That's how I see it. That's why I'm here, Mr. Karpinski, I'm sorry. He's a very nice guy, but that's why I'm here.

Q: And just you may have answered it, but did you reach out to the State's Attorney after you received the October 15, 2020, letter?

A: Yes…

MR. WEDDLE: Objection.

A: …eventually.

Q: Okay. And that would have been the letters we talked about for 2022?

A: And the conversation I had with Mr. Michael at the, I mean if you want to call him an agent at that point, at Bender's Tavern. I think it was during Lieutenant Holsinger's campaign, you know, we were down there together.

Q: And then you followed up with Mr. Bright in

January of 2021?

A: Yes, I followed up in January of 2021, same request, you know, again.

Q: And in essence the same answer, which is your request is denied?

A: Yeah.

Q: For the same reasons?

A: Yeah.

Q: Okay. Now at the time that that request was denied in January of 2021, you were represented by Mr. Harbin? Is that correct?

A: In the criminal proceedings, not in - - not - - Mr. Harbin has never represented me in any capacity in anything but these criminal matters. And I made that explicitly clear to everybody I deal with that you're - - and my - - my attorneys also, that they can deal with me as an individual. There's no privilege, just these are the very narrow issues that I may have an attorney on and that's what's limited, you know, to that.

Q: Well and directing your attention to Exhibit 10, that's what you told me, 2nd page, quote, "Also, I would appreciate you email me directly about this MPIA. Mr. Weddle is doing a great job for me. However, I explained to Mr. Downey and Bright earlier

this year, that unless you are paying the bill, please contact me directly about MPIA."

A: That - - that's correct, yes, yes.

Q: And that's after you had sued Mr. Downey and Mr. Bright in this case. Correct?

A: Right. It's no longer an ongoing MPIA dispute. It's - - it's a, you know, legal dispute over judicial review. So I would have an attorney representing me now. And there's another suit, where I am pro se, and we - - we talk about it, you know, on a weekly basis. And we seem to get along pretty good when we talk, Mr. Karpinski.

Q: When you say, "We," who's the we?

A: Me and you. I think - - I think we've resolved a lot of things with the Zoom meeting.

Q: Okay.

A: Pretty - - pretty quickly. You've been very easy to deal with, and I appreciate that.

Q: Let's talk a little bit about Barry Levey's email. You submitted a request on August 30 of 2021. Correct?

A: I did submit a request on August 30, 2021, that was, I think, specific toward that - - where I spelled out, "I want this email forwarded on this date." Is that the one?

Q: Yes.

A: Yeah.

Q: So it's clear, I mean I'm not trying to surprise you, Mr. Holder, it's Petitioner's Exhibit 4. It's a letter from me.

A: Okay. I have that in my hand, sir.

Q: Okay. And then on the second page, it says, "The County's Director of Information Systems has concluded and conducted a search of the County's email system based upon the search parameters set forth in your request. No request other than what was provided to you by my office on August 23, 2021, were retrieved." See that?

A: I do.

Q: Okay. And that was in connection with the Barry Levey email and your efforts to go ahead and get the attachments that it sounds like you couldn't get from the Town of Keedysville. Is that correct?

A: I - - I filed a Motion to Compel and still - - I got it granted by Judge Wilkinson, God rest his soul, and he never - - never produced those attachments. They sent me an email with two attachments. It was supposed to have three. They sent it with two. The - - the video was missing. You know, according to Mr. Kar- according to the public

record on March 11th, Ed Kuczynski represented to the Court that it was corrupted and the Administrator couldn't open it.

Q: Okay. So let's just sort of take it - - let's take a step back. Ed Kuczynski would be the town attorney for the Town of Keedysville. Correct?

A: That is correct.

Q: Okay. And you submitted a request to the Town of Keedysville for this Barry Levey email. Correct?

A: Correct.

Q: You got the email, and you got two of the attachments, but you were not able to get the third attachment because Mr. Kuczynski told you that that was corrupted. Is that correct?

A: That's correct. That was on March 11th, 2022.

Q: 2022?

A: Yes. That was a motion to compel on the Jeffrey Young case.

Q: So what efforts were made for you to follow up with your request of October 16, 2020, with regard to the, quote, "Video.mov from Morral, Christine Morral at 138 Stonecrest Circle?"

A: With - - with Town Administrator Bishop. And - - and that you're talking about the Keedysville MPIA there?

Q: Yeah. It's - - it's Exhibit 5, Plaintiff's Exhibit 5.

A: I got it.

Q: The document, it looks like that you in response to that, they were forwarded an email from Christine Morral, Friday, May 29, 2020, the Town of Keedysville, townhall@keedysvillemd.com. And then it says it's got attachments to it. Is it your testimony you never got those attachments?

A: That's my testimony. I never got all of those attachments because even in the motion to compel, they never sent video.mov, which was the wiretapping. And the record is that I engaged the Ombudsman, can't talk about what happened, but the result of the Ombudsman was that Keedysville let me in to do an inspection of all their records. At that point in time, December 22nd, during that inspection, I convinced Mr. Bishop through persuasion as the custodian to use his discretion and allow me to inspect the computer where the records were. He pulled them up. I looked over his shoulder. I seen the video, the picket fence, the same preview that was in the one from DNR. It was 6.3 like megs, don't remember the exact tenths, but saw that, hey, they have this video. Austin Flook calls Rick Bishop. Rick shooed me away from the computer,

never get back on it after that. Send the preservation letters. Later, Keedysville gets rid of their computer. They change all their computers. I file, you know, I filed a deposition to perpetuate evidence. I got a big dispute right now over the Town of Keedysville over apparently Kuczynski, Mr. Kuczynski has this hard drive in his office. He doesn't want to let me look at it, doesn't want - - want to let me see what's on it. This is supposedly the original hard drive that he was preserving according to this deposition. And so kind of the whole dispute over video.mov and whether anybody has it, I mean it's always like the cover-up's bigger than the crime in all these things. I mean it was a 50-hour community service for this wiretapping and look at all the money we're spending because somebody decided to delete wiretap recordings to obstruct my justice. And I just think it's absolutely absurd that this would happen to any citizen. And I want to shed a little light on this, Mr. Karpinski.

Q: Barry Levey's your father-in-law?

A: He's my father-in-law.

Q: Okay. And it sounds to me, and I don't want to get in the particulars, that your relationship with Mr. Levey has deteriorated over the last three years.

Is that fair to say?

A: There's an email in February from his daughter that she threatened litigation. He got confused. I was in the chain, but she was very nasty to him, called the Town of Keedysville idiots and lots of other things, threatened him with litigation. I was trying to be kind, trying to resolve both issues. And - - and all the while since I bought the properties, I told Barry, I said, "Look, just recuse yourself. This is - - this is gonna be difficult. Can you -," and - - and he just refused to recuse himself, don't know why. But it did, it created a terrible situation on my family. Still hasn't been resolved today.

Q: And Mr. Levey's actually employed by the Sheriff's Office. Is that correct?

MR. WEDDLE: Objection.

Q: Do you know?

THE COURT: It's…

A: I believe he's employed by the County.

THE COURT: …established.

A: He's on the list that Mr. Bright gave me as a County employee.

THE COURT: Objection's overruled just for the record.

Q: The email you were requesting with regard to

Barry Levey, do you agree with me that it had nothing to do with Washington County? Washington County government.

A: I would disagree because it was in your warehouse of data. You guys were the custodian of the public record under, you know, their duty and control exclusively really according to, you know, Mr. O'Neal's testimony.

Q: Well…

A: Other than Mr. Levey.

Q: The - - the email from townhall@keedysvillemd.com was sent to Barry Levey and other elected officials to address an ongoing dispute that was going on in Keedysville. Correct?

A: That's your characterization. I - - I don't know that I'd agree with it or disagree. I - - I don't really have an opinion.

Q: Well it had - - Keedysville is a municipality within Washington County. Correct?

A: Yes.

Q: Okay. And this was sent to the elected body of Washington - - of - - of the Town of Keedysville. Correct?

A: And then forwarded onto the Washington County government.

Q: It was forwarded onto Barry Levey as an elected official of the Town of Keedysville.

A: Or as Public Safety Coordinator of the Washington County government. I have no idea why Mr. Bishop forwarded it. He's not here to testify. With all due respect, Mr. Karpinski, I can't make opinions for other people.

Q: But at the time, you had made the request of Washington County, you already had the email. Correct?

A: I - - I - - I think I had seen it. I don't know that I had it, but I think I had seen it.

Q: Well do you have any reason to believe you didn't have it as of October 16 of 2020?

A: No, I don't - - I don't have any reason, but I originally made the request on August 3rd of 2020.

Q: Okay.

A: And then I think the next request was October 14. So by January 21st, for sure, but I'm telling you in good faith, I made a search of my records. I can't find an electronic copy. I know that I did a paper inspection kind of situation in Town Hall, and I saw some emails from Christine Morral. I just don't recall that I saw that exact one. Don't - - I might have. I don't want to say I did or I didn't.

Q: So you may have seen it, you may not have seen it?

A: That - - that's correct, yeah, in June. I…

Q: One of your - - let's back up. Your count four in this case involves emails involving Andrew Bright and the State's Attorney's Office. Correct?

A: Count four involves emails between actually Mr. O'Neal, I think was part of them. I think that was the August 3rd portion of count four. And then Deputy State's Attorney including Kenneth Shapiro and Joe Michael and Mr. Bright, yeah, that - - that should be accurate. I mean that's Plaintiff's Exhibit 28 and 29 and 30 and 31. So I would just defer to those documents if that's okay with you.

Q: That's fine. You were already suing the County and Mr. Bright and Mr. Downey at that time. Correct?

MR. WEDDLE: I'm sorry, Kevin, what time?

Q: At the time you submit- submitted your MPIA request regarding the records between Judge Michael, Kenneth Shapiro and Andrew Bright. You were already - - you had already filed suit against the County.

A: Yeah, I was…

Q: And Mr. Holder - - I mean Mr. Downey and Mr. Bright. Correct?

A: I think I had filed suit, two dispositive motions and got a motion for sanctions and got some production on interrogatories, I think, by that point. It was well into litigation.

Q: Okay. And you had sent something on June 30 saying that Mr. Holder sent Mr. Downey and Defendants' counsel an email requesting all emails between the Honorable Deputy State's Attorney including Joseph Michael or Kenneth Shapiro and now or former County Attorney B. Andrew Bright, sent or received on August 4, 2020, and October 14, 2020. Correct?

A: Are you reading from Plaintiff's Exhibit 28?

Q: I'm reading from your Complaint, sir.

A: Oh, from my Complaint? Okay.

Q: Okay. Now those records were actually sent to your attorney on August 4 of 2022. Correct?

A: That's what I testified to earlier. That's the date. It was summer, early August for sure.

Q: And…

A: On or about August 4th would be fair.

Q: Okay. And that - - at that time, you were represented by Mr. Weddle in this case. Correct?

A: I'm represented by Mr. Weddle in this case, yes.

Q: And you were represented by Mr. Greivell.

Correct?

A: I was represented by Mr. Greivell in a separate matter.

Q: And I in fact wrote to you on July 10 of 2022 and indicated to you, "Mr. Holder, you are represented by two law firms. It is too difficult to discern when it is ethically appropriate to respond to you or your lawyers. I am copying them on this email. The County will not respond to you directly. You are far too litigious to deal with as a supposed pro se litigant when you have retained counsel on related matters and have an unconscionable number of cases pending in the Circuit Court for Washington County. Please have one of your two sets of lawyers contact me if you feel it is appropriate." I sent you that. Correct?

A: The document says what it says.

Q: Yeah, okay. And then ultimately, I was given direction or permission to forward to you the emails between Mr. Bright and Mr. - - and the State's Attorney's Office. And that was given to me by Mr. Weddle. Is that correct?

A: Well if you're trying to insinuate that this email had anything to do with those, I would - - I would - - in good faith, I would consciously advise you of your candor to this tribunal because it has

nothing to do with that. This is ridiculous. This was in relationship to a rail trail agreement, Mr. Karpinski. So for you to sit here and characterize that as responsive…

THE COURT: It's not an argu- it's not an argument. It's question and answer. Go ahead, Mr. Karpinski.

A: No. I don't think it was responsive to that PIA request at all.

Q: Okay. The documents you were requesting between Mr. Bright and the State's Attorney's Office for August 3 and October, they were actually provided to you in early August. Correct?

A: I testified to that previously, yes.

Q: Okay. So if your request, your last request was June 30 of 2022, that would have meant that the response was what, four days late?

A: It was a request in May 7th of 2022. It was actually about 83 days past from the initial time.

Q: From the initial request?

A: From the initial request. Yeah, May 7th, I think would be 24 plus 30 plus 31 plus 4, so we're talking 35, 65.

Q: And in the interim, you have been sending - - you were also submitting other…

A: 91.

Q: You were submitting other MPIA requests. Correct?

MR. WEDDLE: In the interim of what? I'm sorry.

Q: In the interim between when you requested the documents between Mr. Bright and the State's Attorney's Office, you were also submitting MPIA requests regarding the rail trail and other things.

A: Well this rail trail came in December of 2021. That's our litigation, 016, and I get 50 days later, you kind of come in from the side after the County has agreed to give me the documents. Then I - - I think this is in response to me asking just to come in and take a screenshot of - - of what the index of the record looks like. And, you know, I think there was a disagreement there that you said I was producing a new record. I thought it was absurd that you can't take a picture of the directory on a computer. It's like an index in a book. And this - - this request was actually, you know, ongoing. If you guys were gonna count this as six or seven requests, I think it's an iteration. I was trying to work somehow to get this request, you know, done. And I think I'm very clear that, look, I'm not giving up my rights to sue on these requests. But I will work with the County in

good faith because I don't want to go to court on all these. It's very resourceful even when I'm doing it myself. You write very good papers. I mean you're very good at this, Mr. Karpinski, and you straw men are great.

Q: Mr. Holder, were you - - were you aware of the - - the emails that Mr. Michael, Judge Michael was sending? And I just want to just go through a couple of them. The one in January of - - January 21 of 2021, that Joe Michael said, "As far as the criminal/natural resources charges pending against Mr. Holder for which he has - - he is - - which his panoply of constitutional rights flow, he's represented by Mr. Harbin." You're aware of that. Correct?

A: After I met Joe Michael at Bender's, I became aware of a whole lot of things, yes.

Q: Well actually you were aware of it because you had submitted a MPIA Act request to my office, and we produced it.

A: Mr. Michael gave it to me before your office gave it to me.

Q: So we gave it to you twice?

A: That particular one, yes.

Q: Okay. And were you aware of Mr. Michael

corresponding with Mr. Bright as of July 27 of 2021, "That Mr. Holder has appealed and all charges are going to be reinstated?"

A: No, I wasn't aware of that, and I never talked to Mr. Michael about, I'm sorry, Judge Michael, about that situation.

Q: That's what you said before. Were you aware of Judge Michael's August 12, 2021, email referring your - - your M- your request says, "Dear Mr. -," it says, "Mr. Michael, my name is Peter Rogers, and I am the attorney for Christy Morral in the case Justin Holder versus Christine Morral," and it gives the number, which you'll remember. I clearly will not. And then it says, "Mr. Holder's requested the production of emails between you and Christine Morral, and I wanted to ask whether you view them as protected by the attorney-client privilege? The emails have been in my possession. But the emails I have in my possession are all from June 26th, 2020. I wanted to ask there may be some work product present in your replies regarding citations filed against Mr. Holder." Were you aware of that email from Mr. Rogers to Mr. Michael?

A: Well Ms. - - Ms. Morral produced on June 26th production of documents, which included the document

I'm seeking in count two. In relation to that production, I became aware that there were emails between her and other parties when you gave me the information on June or, I'm sorry, July 21st, 2021, I knew there was Michael's email. So I pressed her for those emails, which Mr. Rogers informed me through counsel that I was - - that he was going to - - she was asserting a privilege between her and Joe Michael. She thought he was her civil attorney in these emails. And generally, I said, "I don't think so. I don't think he would do that." But Mr. Rogers apparently talked to Mr. Michael. I'm aware now that I saw that document he did. I had a suspicion. He told me he was going to. Mr. Rogers said, "I'm gonna go reach out," and I think he - - I think Joe told him in that document to go talk to Mr. Downey about it. I guess. I think that's what happened. Just you never gave me this in discovery. So I learned about it whenever it was, Wednesday, when you handed me this document. That's why we objected. I was like I'd like to have investigated this a little bit before I came to trial. You know?

Q: So let me ask you this, do you disagree that after Mr. - - Judge Michael referred this matter to Mr. Downey on August 12, 2021, the documents were

produced to you on August 23 of 2021?

A: Yeah. I think I was gonna get them from her or Peter Rogers. Somebody was going to have to give these things up eventually. I just - - I just found out about them.

Q: But - - but my question is, you agree that after it was referred to Mr. Downey, that within 11 days, they were forwarded to you?

A: Yeah. He used his discretion, and he released them this time. You know, maybe he realized he was unlawfully denying them. I don't know.

Q: Your Honor, could we take like a three-minute break?

THE COURT: Yes. Not to rush you on the three minutes, but I'll just wait here so.

(Whereupon this matter went into recess from 3:42 p. m. until 3:45 p. m.)

THE COURT: Okay, we're back on the record.

MR. KARPINSKI: Thank you, Your Honor. Just a couple more, Mr. Holder.

THE COURT: All right.

By Mr. Karpinski:

Q: I think you told me that when you file these MPIA requests and you - - you try and narrow them or reshape them that it's always with the understanding

that you reserve the right to file suit. Is that fair to say?

A: Absolutely. I don't think I've ever waived my right to file a suit or to have my documents within the 30 days. If I do, what happens is we get this factual dispute and there's no knowing and willful, and I spend all this money…

THE COURT: Okay, hold - - hold up. Hold up. You already answered the question.

A: Okay.

Q: Yeah. And I - - I assume the same rings true for future PIA requests, your - - you have every expectation to continue to file one PIA request after another. Is that fair to say?

MR. WEDDLE: Objection, Your Honor.

THE COURT: Sustained.

Q: That's all I have. Thank you.

END CROSS-EXAMINATION

THE COURT: Re-direct?

RE-DIRECT EXAMINATION

By Mr. Weddle:

Q: Mr. Holder, turning to testifying about Defendant's Exhibit 5, could you get Defendant's Exhibit 5 in front of you?

A: Okay. I have number 5 here, yes, sir.

Q: And you were asked a series of questions about, you know, whether or not Mr. Downey, I believe, provided you the documents, I think it was 11 days or so after the email after he had been, quote, "Referred the case." Is that correct?

A: I mean I think it was 11 days after he got this email on August 12th. Mr. Karpinski asked me if he did, and I said, "That's, you know, that's what the record shows in this case." I think it's fair, sure.

Q: Okay. Prior to this trial until you were handed Exhibit 5 during this case, had you ever seen this document before?

A: Never.

Q: It wasn't provided to you in discovery?

A: No, sir.

Q: In this case?

A: No, sir.

Q: Has anyone from the County ever told you why the documents were produced on or about August 23rd, 2011, as shown in Defendant's Exhibit 9?

A: No. I was curious about that throughout this litigation. I came to trial with a pretty muddled mind.

Q: And have you heard any testimony as - - as you sat through this trial from anybody at the County as

to why these documents were produced on August 23rd?

A: No. I was just speculating that, you know, Mr. Rogers' email had something to do with it. It seems to be tangentially involved based on this. Don't know anything for a fact.

Q: And these documents were produced on August 23rd, 2021, only after you filed suit. Correct?

A: Well, yeah, but when I filed suit, I wasn't looking for these documents. That's why I amended my Complaint. I was looking for the documents in counts two and three. So I, you know, yes, that's true, but I don't know that the suit was - - I don't - - I mean I guess there's a casual nexus there.

Q: Let's talk about count four. You talked about amending your suit. I believe you testified that count four pertains, the document for the record pertains to, I think you said, Plaintiff's 28, 29…

A: 30 and 31, I think were the exhibits, possibly 32 there. I can - - I can get those out if you'd like just so I have them.

Q: Yes. Yes, please.

A: Okay. Okay, I'm at number 28 here, 28, 29 and 30 are the May 7th requests. 31 and 32 are the denials based on a legal privilege. 33 is me filing the answers to interrogatories number 8 kindly

reminding the County that they had previously represented to me under oath that they were non-privileged. And then August 4 is an email from Mr. Parkins to you as my agent providing the response of documents to my PIA requests.

Q: I - - I believe during your testimony, Mr. Karpinski referred you to the June 30th, '22, June 30th, 2022, PIA request that you made with respect to count four. Is that right?

A: I believe you if you tell me that.

Q: Okay. And that - - and that request is at Plaintiff's Exhibit 33 is it not?

A: Yes.

Q: And you had made a prior request for the documents contained or that are the subject of count four. Correct?

A: Prior to June 30th…

Q: Yes, sir.

A: …2022?

Q: Yeah.

A: Yeah, I initially I had made the request on May 7th, 2022, as a PIA. But they, you know, they would also be responsive to the request for production of documents that we filed in this case that had not been responded to after the dispositive motion failed…

Q: And you…
A: …according to this Court's order.
Q: In addition to the May 7th, 2022, request, you also made a request on June 16th, 2022, at Plaintiff's Exhibit 32. Correct?
A: Yes, June 16th, I also requested that they provide those documents.
Q: And you provided their own answers to interrogatories, specifically number 8, showing the County that those documents were indeed not privileged. Correct?
A: That's - - that was my intention with adding that to the email, yes, sir.
Q: Okay, and then you made one last request for the documents that are the subject of count four on June 30th. Right?
A: I considered I was just renewing my demand.
Q: And those documents were not provided to you within 30 days were they?
MR. KARPINSKI: Objection as to form.
THE COURT: Just ask him how long.
Q: How - - how long after your - - your - - your June 30th request were - - did it take for the County to produce those documents?
A: I did the math in my head earlier. I came up

with 91 days.

Q: That 91 days is from what date?

A: May 7th, 2022, through August 4th, 2022.

Q: Okay. Can you do the math for the June 16th request?

A: 49 days.

Q: Okay, approximately give or take? And can you do the math for the June 30th, 2022, request?

A: 35 days.

Q: And if you look at - - bear with me one second. If you look at, for example, Plaintiff's 32, you'll see answers to interrogatory number 8, right?

A: Yes.

Q: And there are four documents listed there are there not?

A: There are four documents listed there, one, two, three, four, yes, sir.

Q: So as - - so as of - - and these - - do you recall the date that these answers to interrogatories were filed by the County?

A: On or about March 29th, 2022.

Q: Okay. So as of March 29th, 2022, the County had already collected these four documents.

MR. KARPINSKI: Objection.

THE COURT: It's not a question so.

Q: Correct? As of - - maybe I'll start again. As of March 29th, 2022, the County had already itemized the four documents at issue in count four. Is that right?

MR. KARPINSKI: Objection.

A: I trust…

THE COURT: What's your objection?

MR. KARPINSKI: It's leading. And there's no foundation laid for it either.

THE COURT: Well I would say there's a foundation in that the witness is talking about his involvement in obtaining the documents. So if that's not the case, we need to know. But why don't you ask the question in a non-leading way.

Q: Mr. Holder, as of - - I'll move on. I'll move on from that point. I think - - I think the point is evident. Going to count three, which are the Barry Levey emails.

A: Okay.

Q: Was it your testimony - - was it your testimony that you had all of the attachments to those Barry Levey emails?

A: I know it was my testimony that at most, I got two of the three attachments if they were the - - I - - I doubt they were the correct attachments. But I

got two attachments from the Town of Keedysville sometime after the motion to compel right before the Jeffrey Young trial. There was three attachments on the email clearly specified a picture of two movies, got one short video and a picture, didn't get video.mov, which was the 6.3 meg wiretapped recording. You know?

Q: Okay. And if you could turn to Plaintiff's 5, Plaintiff's Exhibit 5.

A: Okay.

Q: This is the certified record from the Town of Keedysville. Is that correct?

A: That's correct.

Q: Okay. And if you turn to the, I think it's the last page of the document.

A: Okay.

Q: You'll see a - - a June 1st, 2020, email from the townhall@keedysvillemd.com to Barry Levey, Barry Levey, Gina Ellis, Judy Kerns, Mayor Ken Lord and Matt Hull. Right?

A: That's correct.

Q: Okay. You said there were three attachments. Do you know which - - but you only received two. Do you know which ones listed in the attachment line that you received?

A: Well imageO.jpeg is an image file off of an iPhone. That's your generic name for that. The ATT001s are an HTM file that gets produced when you use MSN email off of an iPhone from my understanding of that process. And then there's a video.mov, which that was the name of the wiretap recording and then a video_1.mov, which I thought that was another time she - - she had talked - - testified in a peace order trial about surreptitiously being behind a fence when I was talking to George Nagel on the phone. I thought that might be that one. I don't know. I've never seen it. Nobody's ever produced it. So I don't know what video_.mov is. What they produced to me was this picture of a - - it was like a one-second video of this Bobcat kind of working behind her house. So I, you know, I don't know.

Q: When you say, "What they produced to me," who do you mean by that?

A: Town of Keedysville.

Q: Okay.

A: And - - and that's in connection with the motion to compel Judge - - Honorable Judge Wilkinson's order in that case.

Q: I think we were discussing - - I think during your earlier testimony, you were discussing some - - a

dispute you had with Ms. Morral about her fence and things of that nature.

A: Well her fence was in a stormwater management area. The stormwater pond was failing and it was, you know, messing with this access lane that is kind of a road to nowhere, but it - - it was creating problems. It also was in an easement area. I needed an easement to get this sewer line. The County was pressing me to get an easement for them for the sewer. I was trying to do the right thing for the public. And she just, I guess, didn't want to move her fence. I don't really know what basis she had. Or, you know, I kind of just blind on why she acted the way she did. And that's why I was reaching out to see what she was saying to the government, what was her idea? Like why - - why was this happening to me? Because I really didn't do anything to the lady. I was very nice to her.

Q: And have you ever been charged with any crime related to Christine Morral?

A: No. She wasn't even able to prove I trespassed in the peace order.

Q: If I could refer you back to Defendant's 9. Defendant's 9, do you have that in front of you?

A: Defendant's 9?

Q: Yes, sir.

A: Okay, I got Defendant's 9 in front of me here.
Q: Just to perhaps clarify something, Defendant's 9 doesn't have any, what I'll call Bates labels on it. Correct?
A: I don't see any as I flip through it.
Q: And if you can compare that with Plaintiff's 7 that was produced on or about August 31st. Plaintiff's 7 has Bates labels on it does it not?
A: Plaintiff's 7 has a label at the bottom in the center of the page that says, "Holder PIA response 1 through, it appears to be 73."
Q: Okay. And I believe, I keep - - I'm sorry to keep jostling you around between documents, but I believe Defendant's Exhibit 10 is - - is the production from Mr. Parkins to you and Mr. Downey and Mr. Karpinski transmitting to you Plaintiff's Exhibit 7 with the Bates label, Bates numbers Holder PIA response 1 through 73. Correct?
A: Yes. Well the document represents he had inadvertently omitted a portion or I had to contact him back it - - it appears here it looks like.
Q: Right. But my question is Defendant's Exhibit 10 indicates that on August 31st, 2021, the package which is at Plaintiff's Exhibit 7 was sent to you with Holder PIA response 1 through 73. Correct?

A: Oh, yeah, that's correct. Yeah, with the 1 through 73, yes, sir.

Q: Okay. And did Mr. Parkins advise you why these documents were being produced on August 31st, 2021?

A: Well he said he missed one of the documents, and it was inadvertently omitted.

Q: Okay.

A: He didn't really say which exact MPIA was responsive to that I can tell. You know?

Q: Did he say why these documents were provided to you, I don't know, some five or six months after filing suit on March 15th?

A: No, I - - I just kind of was left to guess. I mean I - - I figured they were what Mr. Karpinski was talking about in the hearing. And at least, you know, I didn't really know why they got produced.

Q: And take me back if you could to August 31st, 2021. That was - - that was after - - were - - were there any motions pending at that time?

MR. KARPINSKI: Objection.

THE COURT: Relevance?

MR. KARPNSKI: Well relevance and, yeah, relevance. It's not relevant to anything.

THE COURT: What is the relevance?

Q: Well I think it's - - it's relevant to show that at that time, there was a pending motion to alter or amend the July 21st, 2021, denial of their first motion for summary judgment. And we had - - we had to oppose that on or about, I think it was August 16th, 2021. And during the pendency of that motion, after receiving our opposition, the documents show up. So I - - I think, you know, arguably and I think I would make that argument, you know, arguably the County knew that, quite frankly, they were going to lose as they had before, and the document showed up.

THE COURT: Okay.

MR. KARPINSKI: It calls for…

THE COURT: The objection's sustained.

Q: Mr. Holder, if I could turn your attention to Plaintiff's 24, which you testified to.

A: Okay.

Q: I think you said you - - was it your testimony that you relied on Mr. Bright as the custodian of these documents? They were…

A: I trusted him. He's an honest man. He seemed to be giving me an honest answer.

Q: Okay. And why didn't you make an inquiry immediately to the State's Attorney's Office for Washington County?

A: Because Mr. Bright didn't expressly tell me to do that. He just said, "Hey, I'm gonna ask them for you. I'm the custodian. I'm gonna use my discretion. I might rely on somebody else's advice." Whether that advice is good or bad, I - - I don't know that that's - - I mean what - - I don't know what good faith basis I would have to go challenge the State's Attorney's advice to the - - if - - if that's what he got. I had, you know, I had no document to rely on. He could have sent me Joe's email, and he said, "Hey, look, right here. Go ask Mr., you know, Michael." And, you know, if he would have done that, maybe my action would have been different. I might have took a different course of conduct. He didn't - - he didn't do that. He just said, "I am denying your request." And when somebody says, "I," that means they're taking responsibility in my eyes.

MR. KARPINSKI: Objection, mischaracterizing what the letter says.

THE COURT: You - - you'll get re-direct if you need it. I mean re-cross.

Q: Were you finished your answer?

A: Just - - just that generally when somebody gives me their word, I take them for their word. I mean unless I have my suspicions…

THE COURT: I think we already got the answer.

Q: Mr. Holder, I think Mr. Karpinski asked you about something to the effect that the email chain, let me see if I can phrase this appropriately. The email chain, if I can point your attention to Plaintiff's Exhibit 1.

A: Okay.

Q: I believe Mr. Karpinski asked you something about, "Do you have any personal knowledge with respect to whether or not the 16 emails were accurate or complete?" Something to that effect.

A: Well if he asked me that specific question based on their production and Plaintiff's 7 going 1 through 73, that's not accurate because I think - - I don't think that 16 emails anyway you slice it or dice it, I think if you - - at the most, you could say it was 17 if you include the, you know, the sheriff's email. Or, you know, sometimes you count an email sort of a thread. Like I - - I don't think there were 16 threads of emails in there either. There might have been four or five threads. So I - - I couldn't come up with the 16, but…

Q: Have you ever been given a copy of the ZIP file?

A: No, I - - I've asked for it. Me and Mr.

Karpinski actually made an agreement on November 14th that he was gonna send me, at least my - - my understanding was that he was gonna forward just, hit forward on either Josh or Andy's email and press in my email address and so I could actually see this ZIP file, what was collected. And we're - - we're in litigation over that, over that little agreement. I mean it's been very resourceful.

Q: Okay. So you've never - - you've never physically had a copy of, what I'll call, the electronic version of the ZIP file?

A: No. And I think I'm entitled to inspect that under GP 205.

Q: Okay. And but you've asked for it?

A: Repeatedly, non-stop, constantly.

Q: Okay. So you don't know whether the documents produced at Plaintiff's Exhibit 7, the 1 through 73, you don't know whether that's - - that it's sum total of all the documents contained in that ZIP file. Correct?

MR. KARPINSKI: Objection as to form. It's leading.

THE COURT: Sustained.

Q: Do you know whether the documents produced at Plaintiff's Exhibit 7 are all the documents that were

in the ZIP file?

A: I have no idea.

Q: You testified to, let's see, you testified - - your testimony was regarding, my notes say a first PIA request, and you - - you testified as to a 201 box, I think is what I wrote down. What - - what did - - what box are you talking about?

A: In the - - I think in '81, they started negotiations under the 1974 Clean Water Act. The EPA, part of their programs was a grant program called the 201 grant program. It had a facilities plan. So you had multiple municipalities that were all applying for these grants. In - - in the 80s, when I was a kid, I remember going to the meetings. So this 201 facilities plan was, I think it was like 15.7 million dollars to install a sewer system to every single house in Wash- or in Sharpsburg and Keedysville. And I think even the - - the Housing and Urban Development had a block community grant to pay for all the connection fees. And that's how I remembered them forcing people, there's people that just put septics in. They were complaining. It was a big deal when I was a kid. It was a really big deal, and everybody was arguing over it. But, you know, we used to get impetigo in the creek all the time. It was so

polluted, and it was so bad for the environment.

Q: Okay. And I believe Mr. Karpinski opened up with asking you, you know, what - - what was the genesis or what was the first PIA request you made? And I think you testified to roads and water and sewer issues. Correct?

A: Yeah, it was generally some old roads in Keedysville being opened, specifically Mount Hebron and a list of the roads in Keedysville, I think, I - - I asked for. And then the - - the sewer water was a little more specific. It requested like agreements, resolu- I don't think I said resolution. I think that was one of the problems. I didn't say, "Resolution." There's resolution. I didn't say 201 plan, didn't know about any of that stuff till I sort of started to, you know, really investigate and get down in the, I'll say get down in the weeds on these things. You know?

Q: Okay. And you testified, you mentioned something about, you know, septic system or sewerage dumping into the creek. Right?

A: Yeah.

Q: And what - - what creek were you referring to?

A: Well it's Little Antietam Creek. It's a Class 3B public waterway listed on MDE's website navigable

waters of the United States according to the 1899 Ports and Harbors Act §9 and 10, U. S. Army Corps of Engineers.

Q: And that Little - - Little Antietam Creek, where - - where does it - - where does it run or flow in relation to the properties at 25 and 28 Antietam Drive in Keedysville?

A: Well it's…

MR. KARPINSKI: Objection. Relevance?

THE COURT: What's the relevance?

Q: Well I'm trying to establish - - I - - I don't know if we've established in Your Honor's mind, I don't know if Your Honor knows where Little Antietam Creek is and has drawn the connection to the properties at issue. So I'm simply trying to get him to describe what…

THE COURT: If - - if there's a relationship there that you're alleging, the objection will be overruled.

A: Generally…

THE COURT: Let's stay with it briefly. Just make the point and move on please.

A: Just briefly, the properties at issue are peninsula, the Little Antietam Creek circles on, they were cut off by the old railroad. The Town spring's just a stone's throw away. They flow into the

Antietam Creek by what was former Treasury Hershey's house and then onto the Potomac River and the Chesapeake Bay.

Q: Okay. And I think during your testimony, you indicated that you - - you want to shed public light on these things and you report to the news media, I think you said.

A: A lot of times, I'll copy Julie Greene and Mike Lewis that cover the local news. I've copied people from the Baltimore Sun. Ken Buckler does a nice radio free Hub City. I think his name's Levi Trumbull. He does a really nice You Tube channel, and I report to him. I talk to Steve Black about these things quite frequently. My brother owns property down right next to Sugarloaf. He's very involved in certain public information aspects in Frederick County. There's a lot of people that I - - Jason Simmons in Keedysville. We're all reporting to various other community outreaches about what's going on so we can be politically involved and decide and report on our government.

Q: You mentioned two individuals, Mike Lewis and Julie Greene. Who - - who are they?

A: They're Herald-Mail news- the Herald-Mail is the local paper for Hagerstown. And they are the - -

they're - - they're typically assigned to the political papers. Don't know, but…

Q: Okay. Thank you, Mr. Holder. No further questions.

END RE-DIRECT EXAMINATION

THE COURT: Do you want any re-cross?

MR. KARPINSKI: Yeah, just a few.

RE-CROSS-EXAMINATION

By Mr. Karpinski:

Q: Mr. Holder, are there - - Holder, are there any articles that have been published by the Hearld news about any of this?

A: Julie Greene published a news article just about my election and that I was working with the County to try to correct some sewer problems back in November. And Levi Trumbull published an article about the, I guess we'd have to do judicial notice or something because it didn't get admitted, that paper that Mr. Weddle had from the PIA compliance where he did an article. Ken Buckler reported when I went to the state government, and they admitted that they don't have title to the railroad. Paul Corderman took some credit for that too. But they totally abandoned this abandoned railroad. There was a public information search to DNR, one of the ones you talked

about earlier. And they admitted they don't have title to any of the property. I challenged MDOT. They were trying to put a - - a line 4 in, and I said, "Look, you know, you got a straight path. You ought to condemn it, but right now you're just holding people's property values down." There's a big - - there's a big thing in, you know, South County about this. Derek Harvey was involved, and the old republican committee chair was involved. And he lives down there.

Q: If I Google your name and the Herald-Mail, will it come up with any of these articles?

A: I think so. I think the Herald-Mail cuts off at like two - - two years maybe though or you can't get articles. You might have to ask them, you know, what articles they have about me. But…

Q: And you said in terms of the ZIP file, you've been - - you've been - - the documents that 1 through 73, they've been provided to you in electronic form have they not?

A: No. They've been provided in a paper PDF format. Electronic search of a ZIP file to me would have the metadata, the date the drive was formed, what the size of it was, the edit history, who was in it. When it gets forwarded through an email server in

email, it's actually a forensic fingerprint. So you can see what version proxy server somebody was using, what version Gmail somebody was using, what servers it hit, where they hit on the backbone of (Kass.net), and you can tell if that's an authentic email that came at that exact time or it's been tampered with.

Q: But those documents have been provided to you as an attachment to an email. Correct?

A: That's correct.

Q: Okay. They just have not been provided to you in the format you would prefer. Is that fair?

A: In the electronic format that I'm entitled to inspect under GP 205. That's my position in our litigation.

Q: Okay. Well I guess we'll agree to disagree. That's all I have. Thank you.

END RE-CROSS-EXAMINATION

THE COURT: Okay. All right, Mr. Holder, you can step down.

A: Thank you, Your Honor.

END TESTIMONY OF JUSTIN K. HOLDER

THE COURT: I guess we need to talk about tomorrow. Where - - where do folks stand in terms of being available?

MR. WEDDLE: Your Honor, I'm - - I'm generally

available.

THE COURT: Okay. Mr. Karpinski, any…

MR. KARPINSKI: Yes?

THE COURT: …problems from your end?

MR. KARPINSKI: No, Your Honor. What - - what would be a good - - when would be a good time for Your Honor to start?

THE COURT: Well we'll start at 9:30. It's not a big difference, and I know you're coming from Baltimore so. I assume you are.

MR. KARPINSKI: Coming from right where you're coming from.

THE COURT: Okay.

MR. KARPINSKI: I live in Montgomery County.

THE COURT: Got ya.

MR. WEDDLE: I don't, but…

MR. HOLDER: I get up early so you tell me.

THE COURT: Why don't we figure 9:30. Finish at least evidence and hopefully closing argument tomorrow realistically? Or I'm not gonna hold you to it, just want to get a sense of where - - if that's a lost cause or not at this point.

MR. KARPINKSI: I think…

THE COURT: I realize the Respondent hasn't put on a case.

MR. WEDDLE: Right. Your Honor, I - - I may raise some housekeeping issues with some documents tomorrow, but I don't - - I don't plan to put on any witnesses to my knowledge unless something changes. I don't know what Mr. Karpinski is going to do.

THE COURT: And you'll get your fair amount of time, Mr. Karpinski. I'm just trying to get a sense real-…

MR. KARPINSKI: Well I think like…

THE COURT: …realistic chance for tomorrow or not.

MR. KARPINSKI: Well I actually I think a very realistic chance because a lot of this already came through through Petitioner's case. All the exhibits are really in front of Your Honor for consideration. So I think we'll be in a position to move to argument fairly early in the morning. I don't know if the Court tends to take it under advisement or how the Court tends to proceed.

THE COURT: I'm not sure at this point. That's a very real possibility. A lot of paperwork that I think in fairness I need to go through and hear your closing arguments. But, you know, kind to see how it goes.

MR. KARPINSKI: Okay, well I think most of the evidence, I'm going to obviously spend the night

looking through to kind of double-check things, but I think the evidence is before the Court. So we should be able to get to closing arguments early.

THE COURT: Okay. All right, well thanks for you work. See you tomorrow morning at 9:30.

(Whereupon this matter was adjourned at 4:19 p. m.)

OoO

√ Digitally signed by Dee Barnhart

DIGITALLY SIGNED CERTIFICATE

I HEREBY CERTIFY that I reported verbatim by electronic device the proceedings in the matter of **Justin Kyle Holder versus Washington County Board of County Commissioners, et al., Case No. C-21-CV-21-000097,** in the Circuit Court for Washington County, on October 24, 2023, before the Honorable Richard E. Jordan.

I further certify that the proceedings were transcribed by me to the best of my ability in a complete and accurate manner, and page numbers 1 through 175 constitute the official transcript of the proceedings. In witness whereof, I have affixed my signature this 15th day of December, 2023.

Dee Barnhart
Court Reporter